FEDERAL REGISTER

VOLUME 24 NUMBER 34

Washington, Wednesday, February 18, 1959

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Treasury Department

Effective upon publication in the FEDERAL REGISTER, paragraph (c) (2) is added to § 6.103 as set out below.

§ 6.103 Treasury Department.

* * * * *

(c) *Coast Guard.* * * *

(2) One Cadet Hostess at the Coast Guard Academy, New London, Connecticut.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-1454; Filed, Feb. 17, 1959; 8:48 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

SUBCHAPTER B—FEDERAL FARM LOAN SYSTEM

PART 10—FEDERAL LAND BANKS GENERALLY

Interest Rates on Loans Made Through Associations; Correction

In Federal Register Document 59-965, published in the FEDERAL REGISTER of February 5, 1959, page 845, the date "January 29, 1959" is corrected to read "January 28, 1959".

[SEAL] R. B. TOOTELL,
Governor,
Farm Credit Administration.

[F.R. Doc. 59-1449; Filed, Feb. 17, 1959; 8:48 a.m.]

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 5]

PART 446—PEANUTS

Subpart—1958 Crop Peanut Price Support Program

MISCELLANEOUS AMENDMENTS

The regulations issued by Commodity Credit Corporation (hereinafter referred to as "CCC") with respect to the 1958 crop peanut price support program, as amended (23 F.R. 6583, 8169, and 9169), are further amended by correcting the reference appearing in § 446.1013, and by providing compensation for extra hauling involved when producers are directed to deliver peanuts under a farm storage loan or purchase agreement to a location more distant than their customary delivery point.

The regulations in §§ 446.1001 to 446.1035, inclusive, are amended as specified below:

1. Section 446.1013 is amended by changing the reference appearing in the next to the last sentence from § 446.1018 (i) (4) to § 446.1020(h) (4).

2. Section 446.1020(h) is amended by adding the following subparagraph (7) at the end thereof:

(7) *Compensation for hauling.* If the producer is directed by the county office to deliver his peanuts to a location other than his customary delivery point, the producer shall be allowed compensation (as determined by CCC, but not to exceed the common carrier truck rate or the rate available from local truckers) for the additional cost of hauling the peanuts any distance greater than the distance from the point where the peanuts are stored by the producer to the customary delivery point.

3. Section 446.1022 is amended by adding the following paragraph (e) at the end thereof:

(e) *Compensation for hauling.* If the producer is directed by the county office to deliver his peanuts to a location other than his customary delivery point, the producer shall be allowed compensation

(Continued on p. 1237)

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

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(as determined by CCC, but not to exceed the common carrier truck rate or the rate available from local truckers) for the additional cost of hauling the peanuts any distance greater than the distance from the point where the peanuts are stored by the producer to the customary delivery point.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; sec. 201, 68 Stat. 899; 15 U.S.C. 714c, 7 U.S.C. 1441, 1421)

Issued this 13th day of February 1959.

[SEAL] WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-1465; Filed, Feb. 17, 1959; 8:50 a.m.]

PART 464—TOBACCO

Subpart—1958 Tobacco Loan Program

1958 CROP; PUERTO RICAN TOBACCO, TYPE 46, ADVANCE SCHEDULE

Set forth below is the schedule of advance rates, by grades, for the 1958 crop of type 46 tobacco under the tobacco loan program formulated by Commodity Credit Corporation and Commodity Stabilization Service, published July 26, 1958 (23 F.R. 5645).

§ 464.1037 1958 crop; Puerto Rican tobacco, Type 46, advance schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate	Grade	Advance rate
Price block I:		Price block III—Continued	
C1F	43	X1P	26
C1P	43	Price block IV:	
C1M	43	X2F	22
C2F	43	X2P	22
C2P	43	Price block V:	
Price block II:		X2PT	17
C3F	35	X3F	17
C3P	35	X3P	17
C3M	35	X3S	17
C3T	35	Price block VI:	
Price block III:		X4	13
C3S	26	Y1	13
X1F	26		

[1] The cooperative associations through which price support is made available to growers are authorized to deduct $1.00 per hundred pounds from the advances to growers to apply against overhead and handling costs. Tobacco is eligible for advances only if consigned by the original producer. No advance is authorized for tobacco found to be in unsafe keeping order, unsound, or damaged.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, as amended; 1054; 15 U.S.C. 714c, 7 U.S.C. 1441, 1421; secs. 125, 211, 70 Stat. 198, 202, 7 U.S.C. 1813, 1860)

Issued this 13th day of February 1959.

[SEAL] WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-1467; Filed, Feb. 17, 1959; 8:50 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 944—MILK IN QUAD CITIES MARKETING AREA

Order Amending Order

§ 944.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Quad Cities marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than March 1, 1959. The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued January 2, 1959, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued January 27, 1959. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective March 1, 1959, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4(c), Administrative Procedure Act, 5 U.S.C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Quad Cities marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete § 944.7 and substitute therefor the following:

§ 944.7 Producer.

"Producer" means any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant.

§ 944.10 [Amendment]

2. Delete the proviso in § 944.10(d) and substitute therefor the following: *"Provided,* That if such shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceeding period of September through November, such plant shall be a pool plant for the months of December through August, unless written application is filed with the market administrator on or before the 1st day of any of the months of December through August to be designated a nonpool plant for such month and for each subsequent month through August."

3. Delete paragraphs (c) and (d) of § 944.10.

4. Delete § 944.12 and substitute therefor the following:

§ 944.12 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants or in his capacity as the operator of a distributing plant that is not a pool plant, or

(b) Any cooperative association with respect to the milk from producers diverted by the association for the account of such association from a pool plant to a nonpool plant.

5. Delete § 944.14 and substitute therefor the following:

§ 944.14 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk received at a pool plant directly from producers: *Provided,* That milk diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association shall be deemed to have been received by the diverting handler at the plant from which diverted: *And provided further,* That in any of the months of July through January milk diverted from the farm of a producer on more than the number of days that milk was delivered to a pool plant from such farm during the month shall not be deemed to have been received by the diverting handler at the plant from which diverted on such days.

§§ 944.30, 944.41 [Amendment]

6. In §§ 944.30(d) and 944.41(b) delete "§ 944.7" and substitute therefor "§ 944.14".

§ 944.44 [Amendment]

7. Delete § 944.44(c) and substitute therefor the following:

(c) As Class I milk if transferred or diverted in the form of a fluid milk product to a nonpool plant located more than 300 miles from the City Hall, Rock Island, Illinois, by the shortest highway distance as determined by the market administrator; and

(d) As Class I milk, if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant located not more than 300 miles from the City Hall, Rock Island, Illinois, by the shortest highway distance as determined by the market administrator, unless:

(1) The transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 944.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat in the fluid milk products (except in ungraded fluid milk products disposed of for manufacturing uses) disposed of from such nonpool plant do not exceed the receipts of skim milk and butterfat in milk received during the month directly from Grade A dairy farms that the market administrator determines constitute the regular source of supply for such plant: *Provided,* That any skim milk or butterfat in fluid milk products (except in ungraded fluid milk products disposed of for manufacturing uses) disposed of from the nonpool plant which is in excess of receipts from such dairy farms shall be assigned to the fluid milk products so transferred or diverted and classified as Class I milk: *And provided further,* That if the total skim milk and butterfat which were transferred or diverted during the month to such nonpool plant from all plants subject to the classification and pricing provisions of this part and other orders issued pursuant to the Act are more than the skim milk and butterfat available for assignment to Class I milk pursuant to the preceding proviso hereof, the skim milk and butterfat assigned to Class I milk at a pool plant shall be not less than that obtained by prorating the assignable Class I milk at the transferee plant over the receipts at such plant from all plants subject to the classification and pricing provisions of this and other orders issued pursuant to the Act.

§ 944.50 [Amendment]

8. Delete § 944.50(b) and substitute therefor the following:

(b) *Class II milk price.* The Class II milk price shall be the average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Plant Location

Amboy Milk Products Co., Amboy, Ill.
Borden Co., Dixon, Ill.
Carnation Co., Morrison, Ill.
Carnation Co., Oregon, Ill.
Carnation Co., Waverly, Iowa.
United Milk Products Co., Argo Fay, Ill.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Issued at Washington, D.C., this 12th day of February 1959, to be effective on and after the 1st day of March 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 59-1423; Filed, Feb. 17, 1959; 8:45 a.m.]

PART 951—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Compilation of Order Regulating Handling

For convenient reference, the texts of the codified portions of Order No. 51, regulating the handling of Tokay Grapes in San Joaquin County, California, and comprising Subpart—Order Regulating Handling (F.R. Doc. 40-3445; 5 F.R. 2883), which became effective on August 20, 1940, as amended (6 F.R. 4291; 14 F.R. 440), recodified (16 F.R. 9353, 10016), and further amended (17 F.R. 7418; 18 F.R. 4903; 24 F.R. 87) are hereby reprinted in the FEDERAL REGISTER in the form of a compilation.

This material was prepared in cooperation with the Federal Register Division and has been examined for completeness and accuracy.

Dated: February 12, 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

Subpart—Order Regulating Handling

FINDINGS AND DETERMINATIONS

AUTHORITY: §§ 951.1 to 951.94 issued under sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c.

§ 951.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein. (See 5 F.R. 2883; 6 F.R. 4291; 14 F.R. 440; 17 F.R. 7418; 18 F.R. 4903)

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900; 4027, 4779), a public hearing was held at Lodi, California, on March 24, 1958, upon proposed amendment of the marketing agreement, as amended, and Order No. 51, as amended (7 CFR Part 951), regulating the handling of Tokay grapes grown in San Joaquin and Sacramento Counties in California. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of Tokay grapes grown in the designated production area in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) There are no differences in the production and marketing of Tokay grapes grown in the production area which make necessary different terms and provisions applicable to different parts of such area;

(4) The said order, as amended and as hereby further amended, is limited in its application to the smallest regional production area that is practicable consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act; and

(5) All handling of Tokay grapes grown in the designated production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Determinations.* It is hereby determined that:

(1) The marketing agreement, as amended, regulating the handling of Tokay grapes grown in San Joaquin County, California, upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the grapes covered by this order) who, during the period April 1, 1957, through March 31, 1958, shipped not less than 50 percent of the Tokay grapes covered by said order, as amended and hereby further amended.

(2) The aforesaid marketing agreement, as amended, and as hereby further amended, has been executed by handlers who were signatory parties to said marketing agreement and who during the preceding fiscal year (April 1, 1957, through March 31, 1958), shipped not less than 50 percent of the Tokay grapes grown in San Joaquin and Sacramento Counties in California, shipped by all handlers signatory to said marketing agreement during such fiscal year.

(3) The issuance of this order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the determined representative period (April 1, 1957, through March 31, 1958), were engaged within the production area specified in said order, as amended, in the production of Tokay grapes for market.

It is, therefore, ordered, That, on and after February 6, 1959, all handling of Tokay grapes grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

Subpart—Order Regulating Handling

DEFINITIONS

§ 951.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States.

§ 951.2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended, and further amended by Public Law 305, 80th Cong., approved August 1, 1947.

§ 951.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 951.4 Grapes.

"Grapes" means all strains of Tokay grapes grown in the production area.

§ 951.5 Grower.

"Grower" is synonymous with "producer" and means any person engaged in the production of grapes, who, as the owner of the vineyard or as a tenant thereon, has a financial interest in the crop from such vineyard. As used in § 951.52, "grower" shall also include the purchaser of a crop of grapes on the grapevines.

§ 951.6 Handler.

"Handler" is synonymous with "shipper" and means any person (except a common carrier of, or an operator of a cold storage for, grapes owned by another person), who, as owner, agent, or otherwise, ships or handles grapes, or causes grapes to be shipped or handled, in fresh form, by rail, truck, boat, or any other means whatsoever.

§ 951.7 Handle.

"Handle" is synonymous with "ship" and means to sell, load in a conveyance for transportation, offer for transportation, transport, or in any other way to place grapes in the current of commerce between any point within the production area and any point outside thereof. The term "handle" also means to deliver grapes to a refrigerated storage warehouse for storage purposes, either within the production area or outside thereof. The term "handle" shall not include the sale of grapes on the vine or the transportation of grapes from a vineyard, or a packing shed within the production area, to a packing shed within the production area.

§ 951.8 Size.

"Size," as used with reference to the size of grapes, means the weight of a bunch of grapes.

§ 951.9 Standard package.

"Standard package" means the package designated by the Industry Committee and approved by the Secretary.

§ 951.10 Season.

"Season" means the 12-month period beginning April 1 of any year and ending March 31 of the following year, both inclusive.

§ 951.11 District.

"District" means the applicable one of the following described sub-divisions of the production area: (a) Acampo District means the school district of Houston; (b) Woodbridge District means the school district of Woods and that portion of the Galt Joint Union School District situated in San Joaquin County; (c) Lafayette District means the school districts of Lafayette, Henderson, Turner,

Ray, Terminous, and New Hope; (d) Victor District means the school districts of Bruella, Victor, Lockeford, Oak View, and Clements; (e) Alpine District means the school districts of Alpine and Lodi; (f) Live Oak District means all of the school districts in the production area other than those included in the Acampo, Woodbridge, Lafayette, Victor, and Alpine Districts. The boundaries of the aforementioned school districts shall be those in effect on October 1, 1947.

§ 951.12 Production area.

"Production area" means San Joaquin County in the State of California.

§ 951.13 Pack.

"Pack" means (a) to place grapes into containers for shipment to market as fresh grapes and to deliver containers of grapes to a packing platform or shed or to a vehicle for transportation to market or storage, or (b) to place grapes into a shipping container in a packing shed: *Provided,* That, when used in and with respect to §§ 951.50 to 951.58, inclusive, such term shall mean the specific arrangement, weight, grade or size, including the uniformity thereof, of the grapes within a container.

§ 951.14 Allotment period.

"Allotment period" means any three consecutive days commencing with such day as may be established in a regulation issued pursuant to § 951.61.

§ 951.15 Day.

"Day" means one calendar day except that Saturday and Sunday shall be considered as one such day.

§ 951.16 Container.

"Container" means a box, lug, crate, carton, or any other receptacle used in packing grapes for shipment as fresh grapes, and includes the dimensions, capacity, weight, marking, and any pads, liners, lids, and any or all appurtenances thereto or parts thereof. The term applies, in the case of grapes packed in consumer packages, to the master receptacle and to any and all packages therein.

§ 951.17 Premium quality grapes.

"Premium quality grapes" means and includes all grapes which meet or exceed the requirements as to grade, size, pack, and container prescribed by the committee, with the approval of the Secretary, for premium quality grapes.

COMMITTEES

§ 951.20 Establishment of Industry Committee.

An Industry Committee consisting of seven members, one for each of the districts designated in § 951.11 and one member at large, is hereby established. There shall be an alternate for each member of the Committee.

§ 951.22 Nomination of members of Industry Committee.

(a) Except as provided in paragraph (c) of this section, nominations for members and alternate members of the Industry Committee shall be made at a meeting of growers for each of the districts. The growers in each district shall nominate one grower for member and one grower for alternate member. Such meetings shall be called by the Industry Committee at such times (on or before March 1 of each season) and at such places as said committee shall designate. The growers at each of such meetings shall select a chairman and a secretary therefor. After nominations have been made, the chairman or the secretary of such meeting shall transmit forthwith to the Secretary his certificate showing the name of each person for whom votes have been cast, whether as member or as alternate for a member and the number of votes received by each such person.

(b) In the nomination of members and alternate members of the Industry Committee, each grower shall be entitled to cast only one vote which shall be cast on behalf of himself, his agents, partners, and representatives, for each nominee to be selected from the district in which the grower produces grapes. A grower shall vote only in the meeting called for such district in which such grower produces grapes. Only growers who are personally present at such nomination meeting shall be entitled to vote for nominees. Each grower shall be entitled to vote only in one district and only for the nominees to be elected for such district.

(c) The nominees for member and alternate for the position of member at large shall be nominated on or before March 5th of each season by majority vote of the six member nominees nominated at the grower meetings provided for in paragraph (a) of this section: *Provided,* That the initial nominees for such positions may be nominated by the six members of the committee representing the specified districts of San Joaquin County.

§ 951.23 Eligibility for membership on Industry Committee.

A person nominated or selected to serve as a member or as an alternate member of the Industry Committee, for any particular season, shall be an individual grower who produced, during the season immediately prior to the season for which the grower has been so nominated or selected, at least 51 percent of the grapes shipped by him during such prior season; or such person shall be an officer, employee, or agent of an organization which produced, during such prior season, at least 51 percent of the grapes shipped by such organization during such prior season; and any such person shall be an individual grower who, or an officer, employee or agent of an organization which, produced grapes during such prior season in the particular district for which he was nominated or selected as a member or as an alternate member of such committee: *Provided,* That the member and alternate member at large may be any qualified grower.

§ 951.24 Selection of members of Industry Committee.

From the nominations made pursuant to § 951.22, or from other qualified persons, the Secretary shall select the seven members of the committee and an alternate for each such member.

§ 951.25 Failure to nominate.

In the event nominations for members and alternate members of the Industry Committee are not made, pursuant to § 951.22, on or before April 15 of the season for which such nominations should have been made, the Secretary may select the members and alternate members for such season without regard to nominations.

§ 951.26 Qualification.

Each person selected as a member or an alternate member of the Industry Committee shall qualify by filing with the Secretary a written acceptance thereof before performing any of his duties under this subpart.

§ 951.27 Terms of office.

Members and alternate members of the Industry Committee shall serve during the season for which they have been selected by the Secretary and until their successors are selected and have qualified.

§ 951.28 Alternate members.

An alternate for a member shall, in the event of such member's absence from a meeting of the Industry Committee, act in the place and stead of such member, and, in the event of such member's removal, resignation, disqualification, or death, shall act in the place and stead of such member until a successor for the unexpired term of such member has been selected.

§ 951.29 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or an alternate member of the Industry Committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member, a successor for the unexpired term of such person shall be nominated and selected in accordance with the provisions of this part, covering the nomination and selection of members and alternate members. If a successor for any such vacancy is not nominated within 20 days after such a vacancy occurs, the Secretary may select such successor, who shall have the same qualifications as his predecessor, without regard to nominations.

§ 951.30 Compensation.

The members of the Industry Committee, and the alternate members of such committee, may be reimbursed for expenses necessarily incurred by them in attending meetings of the said committee and in performing services, necessary in connection with this part, at the request of such committee; and they may receive compensation in an amount not in excess of $10.00 per day for attending each such meeting and for performing such services. The members of the Shippers' Advisory Committee, and the alternate members of such committee, may be reimbursed for expenses necessarily incurred by them in attending meetings of the said committee.

§ 951.31 Powers.

The Industry Committee shall have the following powers:

(a) To administer, as specifically provided in this part, the terms and provisions of this part;

(b) To make administrative rules and regulations in accordance with this part, and to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 951.32 Duties.

The duties of the Industry Committee shall be as follows:

(a) To act as intermediary between the Secretary and any grower or handler;

(b) To keep minutes, books, and records which will clearly reflect all of the acts and transactions of the Industry Committee, which minutes, books, and records shall be subject at all times to examination by the Secretary;

(c) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to grapes, and to engage in such research and service activities relating to the handling of grapes as may be approved, from time to time, by the Secretary;

(d) To furnish to the Secretary such available information as the Secretary requests;

(e) To perform such duties as may be assigned to it from time to time, by the Secretary in connection with the administration of section 32 of the act to amend the Agricultural Adjustment Act, and for other purposes (49 Stat. 774; 7 U.S.C. 612c), as amended;

(f) To cause the books of the Industry Committee to be audited by one or more competent accountants at least once each season and at such other times as the Industry Committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of all audit reports;

(g) To select a chairman of the Industry Committee and such other officers as it may deem advisable;

(h) To defend all legal proceedings against any Industry Committee members (individually or as members), or any officers or employees of such committee, arising out of any act or omission made in good faith pursuant to the provisions of this part;

(i) To employ a confidential employee or employees who shall perform the services required of the confidential employee or employees by the provisions of this part; to employ such other employees as may be necessary, including a manager who shall, among other duties, act as the secretary of the Industry Committee, and such manager may be designated as confidential employee; to determine the salary and duties of such manager and other employees; to authorize, if the committee deems such to be necessary, the manager for and on behalf of the committee to employ temporarily, subject to such limitations and qualifications as may be specified by the committee, such other persons as may be deemed necessary and to determine the respective salaries (which shall be reasonable and within the limitations of the budget and such other limitations as may be prescribed by the committee) and define the respective duties of such employees;

(j) To give the Secretary the same notice of meetings of the Industry Committee as is given to the members thereof;

(k) To submit to the Secretary for each season a budget of its expenses during such season;

(l) With the approval of the Secretary, to redefine the districts into which the production area has been divided in this part, or change the representation from any district on the Industry Committee: *Provided,* That if any such changes are made, representation on such committee from the various districts shall be based, so far as practical, upon the proportionate quantity of grapes shipped from the respective districts during the two seasons immediately preceding the season during which such changes are made;

(m) To authorize, whenever the committee deems it advisable, an employee or employees of the committee to perform any ministerial duties of the committee, subject to the exceptions and limitations set forth in this part: *Provided,* That such authorization by the committee shall specify the employee or employees and state definitely the limitations of the authority thus vested in the respective employee or employees: *Provided, further,* That the committee shall retain concurrent authority in connection with any such duties and shall not authorize any employee or employees to perform (1) the duties of the committee relating to the recommendations to the Secretary for the regulation of shipments pursuant to the provisions of this subpart; or (2) the duties or authority of the committee relating to the establishment of rules and regulations pursuant to the provisions and subject to the limitations set forth in this subpart;

(n) To establish such other committees or subcommittees to aid the Industry Committee in the performance of its duties under this part as the Industry Committee may deem it advisable; and

(o) Each season, prior to making any recommendation to the Secretary for a regulation of shipments pursuant to the provisions of this subpart, to determine the marketing policy to be followed during the ensuing season and to submit a report of such policy to the Secretary; said policy report to contain, among other provisions, information relative to the estimated total production and shipments of grapes; the expected general quality and size of grapes; possible or expected demand conditions of different market outlets; supplies of competitive commodities; and appropriate analysis of the foregoing factors and conditions; and the type of regulation of shipments of grapes expected to be recommended.

§ 951.33 Procedure.

(a) A quorum of the Industry Committee shall consist of five members or alternates then serving in the place and stead of any members in attendance at the meeting, and all decisions of the Industry Committee shall require the affirmative vote of not less than five members.

(b) The Industry Committee may vote by mail, telephone or telegraph: *Provided,* That any action taken by the committee on a mail, telephone, or telegraph vote shall be by unanimous vote of all members of the committee or their appropriate alternates. Any vote by telephone or telegraph shall be confirmed in writing. At any assembled meeting, all votes shall be cast in person.

(c) The members of the Industry Committee, including successors and alternates, and any agent or employee appointed or employed by the Industry Committee, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the Industry Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 951.34 Funds and property.

(a) All funds received by the Industry Committee pursuant to the provisions of this part shall be used solely for the purposes herein specified; and the Secretary may require the Industry Committee and its members to account for all receipts and disbursements.

(b) Upon the death, resignation, removal, or expiration of the term of office of any member of the Industry Committee, all books, records, funds, and other property in his possession or under his control as such member, which relate to the business of the said committee, shall be delivered to his successor in office or to the committee, and such assignments and other instruments shall be executed as may be necessary to vest in such successor or in the committee full title to such books, records, funds, and property.

§ 951.40 Shippers' Advisory Committee.

(a) A Shippers' Advisory Committee, consisting of seven members who are individual persons selected by the handlers in accordance with the provisions of this subpart, is hereby established. There shall be an alternate for each member of such committee. An alternate member shall, in the event of such member's absence from a meeting of the committee, act in the place and stead of such member, and, in the event of a vacancy in the office of such member, shall act in the place and stead of such member until a successor for the unexpired term of such member has been selected.

(b) Six members and six alternate members of the Shippers' Advisory Committee shall be elected by the handlers at a general meeting of all handlers, at which each handler shall have one vote for each member position and each alternate member position for which he is eligible to vote. Three of such members shall be elected by, and from among, the five largest handlers (determined on the basis of the quantity

of grapes shipped by the respective handler during the preceding season), or the employees or representatives of such handlers. Three alternate members for such members shall also be elected by such handlers. Three members and their alternates shall be elected by all other handlers. The seventh member of such committee and his alternate shall be elected jointly by the members of the Industry Committee and the other six members of the Shippers' Advisory Committee. The provisions of this paragraph shall first become effective for the election of members of the Shippers' Advisory Committee who are to serve during the season beginning April 1, 1953.

(c) Any individual person, other than a member or an alternate member of the Industry Committee, shall be eligible for membership on the Shippers' Advisory Committee.

(d) The initial meeting of handlers, at which members of the Shippers' Advisory Committee are to be elected, shall be called and conducted by the Secretary or his agent as soon as possible after the selection of initial members of the Industry Committee. Each handler who desires to vote at the said meeting for the election of members of such committee shall file with the Secretary or his agent an affidavit stating his shipments of grapes during the preceding season. Election meetings held subsequent to the initial meeting shall be called and conducted each season by the Industry Committee as much in advance of the shipping season as is practical; and each handler who desires to vote thereat shall file, with the Industry Committee, a statement of his shipments of grapes during the season immediately preceding the season during which such meeting is held.

(e) The Shippers' Advisory Committee may attend each meeting of the Industry Committee held to consider recommendations with respect to regulations of shipments of grapes pursuant to the provisions of this subpart. The Shippers' Advisory Committee may advise the Industry Committee on matters relating to such recommendations, but shall have no vote with the Industry Committee in any matter.

EXPENSES AND ASSESSMENTS

§ 951.45 Expenses.

The Industry Committee is authorized to incur such expenses as the Secretary may find are reasonable and are likely to be incurred by the Industry Committee during the then current season for its maintenance and functioning and for such research and service activities relating to the handling of grapes as the Secretary may determine to be appropriate. The funds to cover such expenses shall be acquired by the levying of assessments as provided in § 951.46.

§ 951.46 Assessments.

Each handler who first ships grapes shall, with respect to each such shipment, pay to the Industry Committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred, as aforesaid, by the committee during such season. Such handler's pro rata share of such expenses shall be that proportion thereof which the total quantity of grapes shipped by such handler as the first shipper thereof during such season is of the total quantity of grapes shipped by all handlers as the first shippers thereof during such period. The Secretary shall fix the rate of assessment to be paid by such handlers, which rate may be adjusted from time to time by the Secretary in order to cover any later finding by the Secretary of the estimated expenses or the actual expenses of the Industry Committee during such season. Any such handler who ships grapes for the account of a grower may deduct, from the account sales covering such shipment or shipments, the amount of assessments levied on such grapes.

§ 951.47 Handler accounts.

(a) At the end of each season the Industry Committee shall credit each handler with any amount paid by such handler in excess of his pro rata share of the expenses or shall debit such handler with the amount by which his pro rata share exceeds the amount paid by him. Any such debits shall become due and payable upon demand of the Industry Committee.

(b) The Industry Committee may, subject to the approval of the Secretary, maintain a suit in its own name or in the names of its members for the collection of any handler's pro rata share of expenses.

RESEARCH AND DEVELOPMENT

§ 951.49 Research.

The Committee may, with the approval of the Secretary, establish or provide for the establishment of marketing research and development projects designed to assist, improve or promote the marketing, distribution, and consumption of Tokay grapes. The expenses of such projects shall be paid from funds collected pursuant to § 951.46.

REGULATION BY GRADE, SIZE, CONTAINER, AND PACK

§ 951.50 Recommendation of Industry Committee.

Whenever the Industry Committee deems it advisable to limit the shipment of grapes to particular grades, sizes, packs, or containers, or any combination thereof, it shall so recommend to the Secretary. At the time of submitting any such recommendation, the said committee shall submit to the Secretary the data and information upon which it acted in making such recommendation, including factors affecting the supply of, and the demand for, grapes by grades and sizes thereof, and such other information as the Secretary may request. The said committee shall promptly give adequate notice to the handlers and growers of any such recommendation submitted to the Secretary.

§ 951.51 Establishment of regulation.

(a) Whenever the Secretary finds, from the recommendations and information submitted by the Industry Committee, or from other available information, that to limit the shipment of grapes to particular grades, sizes, packs, or containers, or any combination thereof, would tend to effectuate the declared policy of the act, he shall so limit the shipment of grapes during a specified period.

(b) The Secretary shall immediately notify the Industry Committee of the issuance of any such regulation, and the said committee shall promptly give adequate notice thereof to handlers and to growers.

§ 951.52 Exemptions.

(a) The Industry Committee shall, subject to the approval of the Secretary, adopt such procedural rules as are necessary to govern the issuance of exemption certificates under paragraph (b) of this section.

(b) In the event the Secretary issues a regulation pursuant to § 951.51, the Industry Committee shall issue an exemption certificate to any grower who furnishes proof, satisfactory to such committee, that by reason of conditions beyond his control he will be prevented, because of the regulation issued, from shipping or having shipped in fresh fruit channels from a particular vineyard a percentage of his crop of grapes equal to (1) the average percentage of grapes, as determined by the committee, produced in and so shipped from the production area during the preceding three seasons or (2) the average percentage of grapes produced in and so shipped from such vineyard during the preceding three seasons, whichever percentage is the greater. The certificate shall permit such grower to ship, or have shipped, in fresh fruit channels, a percentage of his crop of grapes from such vineyard equal to such greater percentage: *Provided,* That as to vineyards having an age of nine years or less, the committee shall each season establish, for the vineyards of each such age, the quantity of grapes, per acre, likely to be shipped from such vineyards during that season and the applicable quantity shall be used in lieu of the quantity of grapes determined by the committee pursuant to subparagraph (1) of this paragraph. In computing the aforesaid quantities that were shipped during the preceding three seasons, there shall be omitted the aggregate quantities of grapes shipped under exemption certificates.

(c) If any grower is dissatisfied with the action of the Industry Committee taken with respect to his application for an exemption certificate, such grower may appeal to the Secretary: *Provided,* That such appeal shall be made promptly. The Secretary may, upon an appeal made as aforesaid, modify or reverse the action of the committee. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited and plenary; and any determination by the Secretary with respect to an exemption certificate shall be final and conclusive.

(d) The Industry Committee shall, from time to time, submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of grapes thus exempted, and such additional information with respect thereto as the Secretary may request.

(e) Exemptions granted under the provisions of this section shall apply only as to grade and size regulations issued by

the Secretary under § 951.51; and all shipments of grapes under exemption certificates, issued pursuant to this section, shall be subject to, and limited by, such regulations as may be effective under § 951.61 at the time of the respective shipment.

MINIMUM STANDARDS OF QUALITY AND MATURITY

§ 951.55 Recommendation.

Whenever the Industry Committee deems it advisable to establish and maintain in effect during any period minimum standards of quality or maturity, or both, governing the shipment of grapes pursuant to §§ 951.55 and 951.56, it shall so recommend to the Secretary. Each such recommendation of the committee shall be in terms of (a) freedom of the grapes from material impairment of shipping quality; (b) freedom of the grapes from material impairment of edible quality; (c) freedom of the grapes from serious damage to appearance; (d) minimum maturity requirements; or (e) any combination of the foregoing. With each such recommendation, the committee shall submit to the Secretary the information and data on which such recommendation is predicated; and the committee shall also submit to the Secretary such other information as he may request. The committee shall give prompt notice to handlers and growers of any such recommendation.

§ 951.56 Establishment.

Whenever the Secretary finds, from the recommendation and information submitted by the Industry Committee, or from other available information, that to establish minimum standards of quality or maturity, or both, for grapes and to limit the shipment of grapes during any period to those meeting the minimum standards would be in the public interest and would tend to effectuate the declared policy of the act, he shall establish such standards, designate such period, and so limit the shipment of such grapes. The Secretary shall immediately notify the Industry Committee of the issuance of such regulation, and said committee shall give such notice thereof as may be reasonably calculated to bring such regulation to the attention of the handlers and growers.

INSPECTION AND CERTIFICATION

§ 951.58 Inspection.

During any period in which shipments of grapes are regulated pursuant to this part, each handler shall, prior to making each shipment of grapes, cause such shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Promptly thereafter, each such shipper shall submit or cause to be submitted to the Industry Committee a copy of the shipping point inspection certificate issued by the Federal-State Inspection Service with respect to such shipment: *Provided,* That this provision shall not be applicable to a handler who ships grapes which have been so inspected and the copy of such inspection certificate has been submitted to the Industry Committee.

REGULATION BY VOLUME

§ 951.60 Recommendation for volume regulation.

(a) Whenever the Industry Committee finds, after investigation of the factors enumerated in paragraph (b) of this section, that the supply of grapes available for shipment exceeds the demand therefor and that it is advisable to regulate the handling of grapes pursuant to the provisions of §§ 951.60 through 951.72, it shall so recommend to the Secretary. Each such recommendation shall specify the period of time during which such regulation shall be effective and the respective total quantities of grapes which the committee deems advisable to be handled each allotment period during such period of time. The committee shall promptly report its findings and recommendations, together with supporting information, to the Secretary.

(b) In making each such recommendation, the Industry Committee shall give due consideration to the following factors: (1) Market prices for grapes; (2) supply, quality, and condition of grapes in the production area; (3) the supplies of all varieties of grapes on hand in, and en route to, the principal markets; (4) market prices and supplies of competitive fruits, including other varieties of grapes; (5) the probable daily shipments of grapes in the absence of regulation; (6) trend and level of consumer income; and (7) other relevant factors.

(c) The Industry Committee may, at any time, recommend to the Secretary that the quantity of grapes that may be handled during any such allotment period be increased or decreased, or that such regulation be terminated. Any such recommendation shall be supported by the reasons and information relied upon by the committee in making such recommendation.

(d) The Industry Committee shall give reasonable notice to growers and handlers of each meeting to consider recommendations for regulation, or for the modification or termination of regulation, pursuant to the provisions of this section. The committee shall also give prompt notice to growers and handlers of any such recommendation.

§ 951.61 Issuance of volume regulation.

(a) Whenever the Secretary finds, from the recommendations and information submitted by the Industry Committee, or from other available information, that to limit the total quantity of grapes that may be handled during one or more allotment periods would tend to effectuate the declared policy of the act, he shall so limit the shipment of grapes. The Secretary may at any time increase or decrease the quantity of grapes which may be handled during an allotment period, or may terminate such regulation: *Provided,* That no decrease in the quantity of grapes which may be handled during an allotment period shall be made effective after the beginning of such allotment period.

(b) The Secretary shall immediately notify the Industry Committee of the issuance of each such regulation, and of each modification or termination thereof; and the committee shall give such notice thereof as may be reasonably calculated to bring such action to the attention of growers and handlers.

§ 951.62 Allotments.

(a) Whenever the Secretary has fixed the total quantity of grapes that may be handled during an allotment period, the Industry Committee shall compute, for each person entitled thereto, the quantity of grapes which may be shipped by such person during such period. Such quantity shall be the allotment of such person and shall be in an amount equal to the product obtained by multiplying:

(1) The quantity of grapes fixed by the Secretary as the total quantity of grapes that may be handled during such allotment period, or

(2) The quantity of grapes so fixed by the Secretary less the portion thereof for allocation as adjusted allotment pursuant to § 951.65,

whichever is applicable, by such person's allotment percentage, computed in accordance with § 951.64. The Industry Committee shall notify each such person of his allotment on the day immediately preceding the allotment period.

(b) No person shall ship grapes during any allotment period when grapes are regulated pursuant to § 951.61 unless such person has allotment or adjusted allotment, pursuant to §§ 951.62 through 951.72, to ship such grapes: *Provided,* That allotment shall not be required: (1) To deliver grapes to a refrigerated storage warehouse, for storage purposes, within the State of California; (2) to handle grapes pursuant to, and for the purposes specified in § 951.87; and (3) to handle grapes which meet the requirements for premium quality grapes.

§ 951.63 Application for allotment.

(a) Each person who proposes to ship grapes as the first handler thereof during any period in which grapes may be regulated pursuant to § 951.61 shall submit to the Industry Committee, at such time and in such manner as the committee may prescribe, a written application for allotment. Such application shall be substantiated in such manner and shall be supported by such information as the committee may require, including (1) an accurate description of the location of each vineyard, or portion thereof, from which grapes will be handled by the applicant during the current season; (2) the number of acres and the age of the vines in each such vineyard or portion thereof; (3) the name and address of the producer, or authorized agent, for each such vineyard or portion thereof; (4) the number of standard packages, or the equivalent thereof, of grapes from each such vineyard, or portion thereof, that were shipped during each of the two preceding seasons; and (5) information identical to that required in subparagraphs (1) through (4) of this paragraph with respect to all other vineyards or portions thereof from which the applicant shipped grapes during either or both of the two preceding seasons. If the applicant does not have the record of shipments of grapes from a particular

vineyard or vineyards but can furnish the record for a group of vineyards of which such vineyard or vineyards are a part, he shall set forth such record in his application and the shipments from each such vineyard shall be considered to be equal to the product obtained by multiplying the number of acres contained in that vineyard by the average shipments per acre for such group.

(b) The Industry Committee shall check the accuracy of the information submitted pursuant to paragraph (a) of this section and of § 951.75. If the committee finds that there is an error, omission, or inaccuracy in such information, it shall correct the same and shall notify the applicant, giving the reasons therefor. Upon request, the applicant shall be given an opportunity to discuss with the committee the factors considered in making the correction. If it is determined that an error, omission, or inaccuracy has resulted in a person receiving more or less allotment than that to which such person is entitled under the provisions of this subpart, such person's allotment shall be adjusted, over such period as may be determined by the committee, to the extent required to offset the error, omission, or inaccuracy.

§ 951.64 Allotment percentage.

(a) The allotment percentage of each applicant entitled thereto for each allotment period shall be seventy-five percent of the percentage obtained by dividing the total grape shipments from such applicant's vineyards as reported pursuant to § 951.63 (a) (1) to (4), by the total grape shipments during the preceding two years from vineyards of all applicants plus twenty-five percent of the following applicable percentage: (1) For the first allotment period of each season, the percentage obtained by dividing the total quantity of grapes packed by or for the applicant during the first 6 days of the 9 days immediately preceding the first allotment period by the total quantity of grapes packed by or for all applicants during such 6 days; (2) for the second allotment period each season, the percentage obtained by dividing the total quantity of grapes packed by or for the applicant during the 3 days immediately preceding the first allotment period by the total quantity of grapes packed by or for all applicants during such 3 days; (3) for the third and each succeeding allotment period each season, the percentage obtained by dividing the total quantity of grapes packed by or for the applicant during the allotment period penultimate the allotment period to which the allotment shall apply by the total quantity of grapes packed by or for all applicants during such period.

(b) If a person gains or loses the right to ship grapes from a vineyard by reason of a grower's transfer of his grapes from one person to another, there shall be a corresponding increase or decrease in that portion of the respective person's allotment percentage which is based on previous shipments. The person gaining the right so to ship grapes may submit an application to the Industry Committee for such increase, accompanied by a verification of the transfer by the grower or the person losing the right to ship such grapes. Such increase and decrease shall not be effective for any allotment period unless such application is received by the committee at least three days prior to such period.

(c) An allotment percentage shall be computed for, and allotment issued to, a person only if such person has made application therefor in accordance with the provisions of this section.

§ 951.65 Adjustment of allotment.

A portion of the total quantity of grapes fixed by the Secretary as the quantity of such grapes which may be handled during an allotment period shall be allocated to handlers as adjusted allotment in accordance with the provisions of this section.

(a) Each season, prior to recommending regulations pursuant to § 951.60, the Industry Committee shall establish the quantity of grapes per acre which is likely to be shipped during the current season from mature vineyards and separate quantities for vineyards from nine years to one year of age, respectively. In establishing these quantities the committee shall consider (1) the estimated production of grapes for the current season; (2) the average number of standard packages of grapes per acre shipped from the production area during preceding seasons; (3) the estimated total acreage of grapes in the production area during the current and past seasons; (4) the acreage of grapes which have been thinned; (5) production records of mature vineyards and of vineyards from nine years to one year of age; and (6) other relevant factors.

(b) Adjusted allotment shall be allocated to, and held by the Industry Committee for the account of, handlers proposing to ship grapes as first handlers thereof (1) from a vineyard from which grapes were not shipped during one or both of the two preceding seasons; (2) from a vineyard for which records of shipments during one or both of such seasons are not available; or (3) from a vineyard with less shipments per acre during one or both of such seasons than the quantity established by the Industry Committee in accordance with paragraph (a) in this section for vineyards of similar age. The amount of adjusted allotment so allocated and held for the account of a handler shall be equal to the difference between the allotment to which such handler is entitled pursuant to the provisions of § 951.62 (a) (1) and the allotment to which such handler would be entitled pursuant to the provisions of said paragraph (a) (1) if the previous shipments from such vineyard were equal to the applicable quantity estimated by the committee in accordance with paragraph (a) of this section: *Provided,* That in no event shall such amount exceed the amount of adjusted allotment requested by such handler.

(c) Any handler entitled to adjusted allotment may apply to the Industry Committee on forms prescribed by it for such allotment. Such application shall be filed with the committee at least three days prior to the first allotment period for which he desires adjusted allotment and shall contain the following information: (1) The identity of each vineyard for which adjusted allotment is requested; (2) the allotment period or periods for which allotment is requested; and (3) the quantity of adjusted allotment requested for each such period.

(d) Any handler to whom adjusted allotment is allocated for a vineyard may request the application of such adjusted allotment only to the extent that he has packed, or has had packed, grapes from such vineyard in excess of that portion of his allotment which is based on previous shipments from such vineyard. The Committee shall release to such handler such allocated adjusted allotment upon evidence, satisfactory to it, of performance as herein described: *Provided,* That any quantity of grapes packed from a vineyard in excess of the quantity of adjusted allotment plus allotment based on previous shipments from such vineyard may be carried forward and applied to the adjusted allotment for such vineyard in subsequent allotment periods.

(e) Any adjusted allotment held for the account of handlers upon expiration of an allotment period shall be added proportionately to the allotment of all handlers during the next succeeding allotment period.

§ 951.67 Undershipments.

If during any allotment period a handler ships grapes in an amount less than his allotment he may ship during the next succeeding allotment period a quantity of grapes equal to such undershipment: *Provided,* That the amount of the undershipment which such handler may ship during such period shall not exceed the equivalent of such percentage of the total allotment issued to him for the allotment period during which such undershipment occurred as shall be established by the Industry Committee, or 1,105 standard packages of grapes, whichever is the greater.

§ 951.68 Overshipments.

During any allotment period a handler may ship a quantity of grapes equivalent to five hundred standard packages of such grapes in addition to his allotment for such period. Any such overshipment shall be deemed to be a shipment against the allotment of such handler for the allotment period next succeeding.

§ 951.69 Allotment loans.

A person to whom allotment has been issued may lend such allotment, or any part thereof, to another person to whom allotment also has been issued subject to the following terms and conditions:

(a) Allotment loans shall be transacted only upon notice to and under the supervision of the Industry Committee.

(b) Allotment shall be repaid in the allotment period immediately following the period in which it is borrowed.

(c) Allotment may be loaned for use only during the allotment period in which it is issued.

(d) Allotment which is repaid may be used only during the allotment period in which the repayment is made.

(e) No person may borrow and lend allotment during the same period; and

(f) Except as provided in this section and in § 951.71, allotments are not transferable.

§ 951.70 Priority of allotment.

Shipments during an allotment period shall first be applied against allotment issued for such allotment period before being applied against allotment available by reason of an undershipment, allotment loan, or repayment of allotment, in that order.

§ 951.71 Assignment of allotment.

In connection with each handling of grapes which requires allotment, each handler shall, except with respect to shipments by rail car, at the time of shipment issue to the consignee or purchaser or agent thereof, an assignment of allotment certificate covering each quantity of grapes so handled. Such assignment of allotment certificate shall be on the form, and distributed in the manner, prescribed by the Industry Committee and shall contain the following information: (a) Date of shipment; (b) name and address of consignee or purchaser; (c) number of standard packages of grapes or the equivalent thereof in weight; (d) destination of shipment; (e) the license number or numbers of the truck and trailer transporting such grapes from the handler's place of business; and (f) the name of the handler issuing the assignment certificate. Such assignment shall also contain a certification to the United States Department of Agriculture and to the Industry Committee as to the truthfulness of the information shown thereon.

§ 951.72 Right of appeal.

If any grower or handler is dissatisfied with any action taken by the Industry Committee pursuant to §§ 951.60 through 951.72, such grower or handler may appeal to the Secretary: *Provided,* That such appeal shall be made promptly. Any such appeal shall be made by filing with the Industry Committee a written notice of appeal stating the grounds upon which the appeal is made. Thereupon, the Industry Committee shall review the action being contested and shall determine whether and to what extent its original action should be revised. If the committee affirms its original action, it shall promptly forward the notice of appeal to the Secretary together with all data and information applicable thereto. The Secretary may, upon an appeal made as aforesaid, affirm, modify, or reverse the action of the Industry Committee and such action by the Secretary shall be final.

MODIFICATION, SUSPENSION, OR TERMINATION

§ 951.73 Modification, suspension, or termination.

Whenever the Industry Committee deems it advisable to recommend to the Secretary the modification, suspension, or termination of any or all of the regulations established pursuant to this subpart, it shall so recommend to the Secretary. If the Secretary finds upon the basis of such recommendation or from other available information that to modify such regulations will tend to effectuate the declared policy of the act, he shall so modify such regulations. If the Secretary finds, upon the basis of such recommendation or upon the basis of other available information that any such regulations obstruct or do not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulations. The Secretary shall immediately notify the Industry Committee, and such committee shall promptly give adequate notice to handlers and growers, of the issuance of each order modifying, suspending, or terminating any such regulations. In like manner and upon the same basis the Secretary may terminate any such modification or suspension.

REPORTS BY HANDLERS

§ 951.75 Reports.

For the purpose of enabling the Industry Committee to perform its functions under this subpart, each handler shall furnish, or authorize any or all railroad, transportation, and cold storage agencies to furnish, to the confidential employees of the Industry Committee, complete information, in such form and at such times and substantiated in such manner as shall be prescribed by the Industry Committee, with regard to each shipment of grapes. Such information may include (a) a report of all grapes packed by or for such handler; (b) a report of each shipment outside the production area, except the delivery of grapes to a refrigerated storage warehouse for storage purposes within the State of California, which report shall include all grapes shipped from such storage and shall contain with respect to each such shipment the date and time of shipment, the name and address of the shipper, the car or truck license number, the number of standard packages of grapes or the billing weight thereof, the grade of such grapes, the name of the grower for whom such grapes are shipped, the place where the shipment originated, the destination and any diversion of the shipment made through any and all agencies; (c) a report of each delivery of grapes to a refrigerated storage warehouse, for storage purposes, within the State of California showing the name and address of the shipper, the location of the storage warehouse, and the number of standard packages of grapes or the billing weight thereof; (d) a report of each shipment made within the area of production showing the name and address of the shipper, the name and address of the consignee or purchaser, and the number of standard packages of grapes or the billing weight of the shipment; (e) a report by vineyards of all grapes packed from vineyards for which adjusted allotment was issued under the provisions of § 951.65; and (f) such other reports as the Industry Committee may require. Such information may be compiled by the confidential employees and made available in summary form to all handlers and other interested persons who request a copy thereof: *Provided,* That such compilation or summary shall not reveal the identity of the individual furnishing the information. Such confidential employees shall not disclose, to any person other than the Secretary, any information that may be obtained pursuant to this section, except in the aforesaid manner.

EFFECTIVE TIME AND TERMINATION

§ 951.77 Effective time.

The provisions of this subpart shall become effective August 20, 1940, and shall continue in force until terminated in one of the ways specified in § 951.78.

§ 951.78 Termination.

(a) The Secretary may at any time terminate the provisions of this subpart by giving at least 1 day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that any such provision obstructs or does not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any current marketing period whenever he finds that such termination is favored by a majority of the growers who, during such current marketing period, have been engaged in the production of grapes for market: *Provided,* That such majority have, during such period, produced for market more than 50 percent of the total volume of grapes produced for market during such period; but such termination shall be effective only if notice thereof is given on or before April 1 of such current marketing period.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 951.79 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart, the members of the Industry Committee then functioning shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all funds and property then in the possession or under the control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements, or deliver all funds and property on hand, together with all books and records of the Industry Committee and the trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds and claims vested in the committee or the trustees pursuant to this part.

(c) Any funds collected for expenses pursuant to the provisions of this subpart and held by such trustees or such other person, over and above amounts necessary to meet outstanding obligations and the expenses incurred necessarily by the trustees or such other person in the performance of their duties under this part, shall, as soon as practicable after the termination of this part, be returned to the handlers pro

rata in proportion to their contributions made pursuant to § 951.46.

(d) Any person to whom funds, property, or claims have been delivered by the Industry Committee or its members upon direction of the Secretary, as provided in this section, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon the members of the committee or upon the trustees.

MISCELLANEOUS

§ 951.85 Compliance.

Except as otherwise specifically provided in this part, no handler shall ship grapes, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part, and no handler shall ship grapes except in conformity with the provisions of this part.

§ 951.86 Right of the Secretary.

Any rules, regulations, or determinations of the Industry Committee which are submitted to the Secretary for his approval, pursuant to the provisions of this part, may be modified or changed by the Secretary prior to such approval, without further action thereon by the said committee.

§ 951.87 Grapes not subject to regulation.

(a) Except as otherwise provided in this section, nothing contained in this subpart shall be construed to authorize any limitation of the right of any person to ship:

(1) Grapes in any quantity for consumption by a charitable institution;

(2) Grapes in any quantity for distribution for relief purposes;

(3) Grapes in any quantity for distribution by a relief agency;

(4) Grapes in commercial quantities for commercial conversion into by-products, including wine and juice;

(5) Grapes not in excess of such quantity as may be established by the Industry Committee, with the approval of the Secretary, as the minimum quantity below which shipments may be made without limitation; or

(6) Grapes in such types of shipments as may be established by the Industry Committee, with the approval of the Secretary, as the types of shipments which may be made without limitation.

(b) No assessment shall be levied on any grapes not subject to regulation under paragraph (a) of this section. The Industry Committee may, with the approval of the Secretary, prescribe such rules and regulations as it may deem necessary to prevent grapes so shipped from entering commercial fresh fruit channels of trade contrary to, or in violation of, this part.

§ 951.88 Liability of Industry Committee members.

No member, alternate member, or employee of the Industry Committee shall be held liable, either individually or jointly with others, in any way whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, or employee, except for acts of dishonesty.

§ 951.89 Agents.

The Secretary may, by a designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 951.90 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination hereof, except with respect to acts done under and during the existence of this subpart.

§ 951.91 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 951.92 Derogation.

Nothing contained in this subpart is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the Act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 951.93 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Industry Committee or by the Secretary.

§ 951.94 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the United States, or Secretary, or of any other person with respect to any such violation.

[F.R. Doc. 59-1424; Filed, Feb. 17, 1959; 8:45 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 1]

PART 121—SMALL BUSINESS SIZE STANDARDS

Determination of Small Business for Sales of Government-Owned Property

On December 10, 1958, notice of proposed rule making regarding the size standards for small business for the purpose of sales of Government property was published in the FEDERAL REGISTER (23 F.R. 9561). The definition relating to the sale of Government-owned timber as proposed with changes resulting from consideration of relevant matter presented by interested parties is hereby adopted as set forth below. The general definition for the purpose of sales of Government-owned property will be adopted and published within the next 30 days.

The Small Business Size Standards Regulation (23 F.R. 10514) is hereby amended by adding the following new § 121.3-4:

§ 121.3-4 Determination of small business for sales of Government property.

(a) *General definition.* [Reserved.]

(b) *Sales of Government-owned timber.* (1) In connection with the sale of Government-owned timber a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates employs not more than 100 persons.

(2) Any concern which submits bids or offers for the purchase of Government-owned timber in its own name but which proposes to resell such timber in the form of logs, bolts, pulpwood or similar products is a small business concern only when:

(i) It is a small business concern within the meaning of subparagraph (1) of this paragraph, and

(ii) In the case of Government sales reserved for or involving the preferential treatment of small businesses, such purchase is not financed by or through a business which is not small within the meaning of § 121.3-3 or this section.

(Sec. 5, Pub. Law 85-536; 72 Stat. 385)

Dated: February 10, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-1447; Filed, Feb. 17, 1959; 8:48 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

PART 222—DEFINITION AND CREDITABILITY OF COMPENSATION

PART 225—COMPUTATION OF ANNUITY

Miscellaneous Amendments

Pursuant to the general authority contained in section 10 of the act of June 24, 1937 (50 Stat. 314, 45 U.S.C. 228(j)), §§ 222.5, 225.1, 225.3, 225.5 and 225.6 of the regulations under such act (3 F.R. 1478; 4 F.R. 1477; 4 F.R. 4358; 5 F.R. 1467; 5 F.R. 3508; 5 F.R. 4330; 6 F.R. 298; 7 F.R. 2211; 12 F.R. 466; 15 F.R. 796, 797; 20 F.R. 3706–3727) are amended and §§ 225.12 and 225.13 are adopted by Board Order 59–19, dated January 28, 1959, to read as follows:

§ 222.5 Verification of compensation claimed.

(a) Compensation claimed shall be verified to the extent deemed necessary by the Board to determine the "monthly compensation" referred to in § 225.3 of this chapter and shall be verified from employers' pay roll or other detailed records.

(b) In any case involving verification of compensation, the Board may prescribe the extent and manner in which such compensation shall be established.

§ 225.1 Formula for computing annuity.

An annuity for a month after June 1956 shall be computed by multiplying an individual's "years of service" by the following percentages of his "monthly compensation": 3.04 percent of the first $50; 2.28 percent of the next $100; and 1.52 percent of the next $200.

§ 225.3 Determination of "monthly compensation".

(a) The "monthly compensation" of an individual shall be:

(1) If his "years of service" include only service subsequent to December 31, 1936, and, in the case of station employees described in paragraph (b) (2) of this section, only service subsequent to August 31, 1941, the result obtained by totaling the compensation received for his "years of service" and dividing that sum by the number of months of his "years of service";

(2) If his "years of service" include only service prior to January 1, 1937, and, in the case of station employees described in paragraph (b) (2) of this section, only service prior to September 1941, his "monthly compensation for service prior to January 1, 1937," or prior to September 1941, respectively, determined as provided in paragraph (b) of this section;

(3) If his "years of service" include service subsequent to December 31, 1936, and service prior to January 1, 1937, the result obtained by (i) multiplying his "monthly compensation for service prior to January 1, 1937," determined as provided in paragraph (b) of this section, by the number of months in such portion of his "years of service" as is prior to January 1, 1937, (ii) adding to the product the total compensation earned by him in such portion of his "years of service" as is subsequent to December 31, 1936, and (iii) dividing the sum by the total number of months in his "years of service": *Provided, however,* That in the case of station employees described in paragraph (b) (2) of this section, if his "years of service" include service subsequent to August 31, 1941, and service prior to September 1941, the result obtained by (*a*) multiplying his monthly compensation for service prior to September 1941 determined as provided in paragraph (b) of this section by the number of months in such portion of his "years of service" as is prior to September 1941, (*b*) adding to the product the total compensation earned by him in such portion of his "years of service" as is subsequent to August 31, 1941, and (*c*) dividing the sum by the total number of months in his "years of service."

(b) In determining "monthly compensation," the rules set forth in this paragraph shall be applied, the Board having found, pursuant to the proviso in section 3(c) of the Railroad Retirement Act, that in any case to which subdivision (ii), (iii), or (iv) of subparagraph (1) of this paragraph applies, the service included in the "years of service" in the period 1924–31 is insufficient to constitute a fair and equitable basis for determining the amount of compensation paid to the individual in each month of service before 1937, and that the method provided in such subdivisions for determining the amount of such compensation for each such month is fair and equitable in every case to which such method is specified as applicable.

(1) For an individual other than a station employee described in subparagraph (2) of this paragraph, "monthly compensation for service prior to January 1, 1937," shall be determined under the first of the following subdivisions which may be applicable:

(i) (*a*) If 18 or more months of proved service in the period 1924–31 are included in the individual's "years of service" and compensation records are available for at least one-half but not less than 18 of such months, the "monthly compensation for service prior to January 1, 1937," shall be the result obtained by dividing the number of months in the period 1924–31 which are included in the "years of service" and for which compensation records are available into the creditable compensation earned in such months.

(*b*) If compensation records are not available for at least one-half or for 18, whichever is higher, of the months of proved service in the period 1924–31 that are included in the individual's "years of service," the "monthly compensation for service prior to January 1, 1937," shall be the higher of: (*1*) The monthly average of the compensation earned in the months in the period 1924–31 which are included in the "years of service" and for which compensation records are available; or (2) the Interstate Commerce Commission average.

(ii) (*a*) If 18 or more months of service are proved in the period 1924–31 but less than 18 months in such period are included in the individual's "years of service," the "monthly compensation for service prior to January 1, 1937," shall be the monthly average of the compensation earned in the last 18 months of proved service in the period 1924–31 provided that compensation records are available for all such 18 months.

(*b*) If compensation records are not available for all of the last 18 months of proved service in the period 1924–31, the "monthly compensation for service prior to January 1, 1937," shall be the higher of: (*1*) The monthly average of the compensation earned in those months in the last 18 months of proved service in the period 1924–31 for which compensation records are available; or (2) the Interstate Commerce Commission average.

(iii) (*a*) If the individual's service began before 1932 but less than 18 months of service are proved in the period 1924–31, the "monthly compensation for service prior to January 1, 1937," shall be the higher of: (*1*) The monthly average of the compensation earned in the months in the period 1924–36 which are included in the individual's "years of service" and for which compensation records are available; or (2) the Interstate Commerce Commission average.

(*b*) If no service was proved in the period 1924–36 but service prior thereto is proved and is included in the individual's "years of service," the "monthly compensation for service prior to January 1, 1937," shall be the Interstate Commerce Commission average for the occupation in which the individual was last engaged prior to 1924.

(iv) If the individual's service began after 1931, the "monthly compensation for service prior to January 1, 1937," shall be the higher of: (*a*) The monthly average of the compensation earned in the months in the period 1932–36 which are included in the individual's "years of service" and for which compensation records are available; or (*b*) the Interstate Commerce Commission average.

(2) For a station employee whose duties consisted of or included the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the form of tips, the "monthly compensation" paid or attributable as paid with respect to each month of service before September 1941 shall be the result obtained by dividing (i) the creditable compensation earned by him as a station employee in the period September 1940–August 1941 by (ii) the number of months he rendered service as a station employee during that period: *Provided, however,* That in any case in which service of a station employee in the period September 1940–August 1941 is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the amount of compensation paid or attributable as paid to him in each month of service before September 1941, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable.

The following paragraphs of this section shall not be applicable to station employees.

(c) (1) The term "occupation" as used in this chapter shall mean that activity in which an individual was engaged while in the service of an employer.

(2) If an individual was engaged in more than one "occupation" in any calendar month, he shall be considered to have been engaged throughout that calendar month in whichever one of such "occupations" has the highest Interstate Commerce Commission average.

(d) (1) The term "Interstate Commerce Commission average" as used in this chapter shall mean the consolidated monthly average of employee earnings reported to the Interstate Commerce Commission for the years 1924–31 by all Class I carrier-employers for employees in the occupation in which the individual was employed during the period specified, or in an occupation essentially similar thereto.

(2) For any individual who was employed in two or more occupations in the period specified, the "Interstate Commerce Commission average" shall be obtained by: Multiplying such monthly average of earnings reported by carrier-employers for each occupation by the number of calendar months in which the individual was engaged in such occupation during the period specified; and dividing the sum of the products by the total number of months of service in all occupations in which he was engaged during such period.

(3) If the Interstate Commerce Commission average exceeds $300, $300 shall be used in lieu of such average.

(e) For the purposes of this chapter there shall be regarded as a month for which compensation records are available only a month of service for which all of the employee's claimed compensation can be verified in accordance with the provisions of § 222.5 of this chapter, and every other month of service shall be regarded as a month for which compensation records are missing.

(f) No redetermination of the "monthly compensation for service prior to January 1, 1937," shall be made under the provisions of this section in any case in which prior to January 28, 1959, a final determination of the monthly compensation for such service has been made under this section as originally promulgated or as amended, or under any other authority: *Provided, however,* That the "monthly compensation for service prior to January 1, 1937," shall be redetermined in any case in which compensation records become available for any month or months which in the making of the previous determination were regarded as a month or months for which compensation records were missing, and such redetermination would result in an increase in such monthly compensation.

§ 225.5 Minimum amount of annuity.

In the case of an individual having a current connection with the railroad industry as defined in section 1(o) of the act and § 208.5 of this chapter, the minimum annuity payable for a month after June 1956 shall, except as provided in § 225.6 and prior to any reduction pursuant to §§ 225.7, 225.8 and 225.9, be whichever of the following is the least:

(a) $4.55 multiplied by the number of the individual's "years of service"; or

(b) $75.90; or

(c) The individual's "monthly compensation" as determined under § 225.3.

§ 225.6 Overall minimum based on Social Security Act formula.

(a) When the total amount of annuity payable to an individual for an entire month, except for a reduction under §§ 225.7 and 225.8, plus the amount, if any, of the spouse's annuity payable for such month to the spouse of such individual, is less than the amount, or the additional amount, which would have been payable for such month under the Social Security Act to the individual, his spouse, and his children, if any, the amount of the annuity or annuities shall be increased proportionately to such amount or additional amount.

(b) When an individual's annuity is subject to a reduction under § 225.7 or § 225.8, and the amount of annuity payable to such individual for an entire month without regard to such reduction, plus the amount, if any, of the spouse's annuity payable for such month to the spouse of such individual, is less than the amount, or the additional amount, which would have been payable for such month under the Social Security Act to the individual, his spouse, and his children, if any, the total amount of the annuity or annuities shall be reduced by the same amount in money as the individual's annuity was reduced under § 225.7 or § 225.8. The amount of such individual's annuity and the amount of his spouse's annuity, if any, shall be increased proportionately to such total amount as so reduced.

(c) For the purpose of this section:

(1) The individual's service as an employee after 1936 shall be deemed to have been "employment" as that term is defined in the Social Security Act;

(2) Quarters of coverage shall be determined in accordance with section 5(1)(4) of the Railroad Retirement Act (see § 237.101 of this chapter), except that the alternate method in such section relating to determining quarters of coverage in a case where an individual lacks a completely or partially insured status does not apply. If an individual lacks an insured status for the purpose of this section through the use of the table appearing in § 237.101 of this chapter, quarters of coverage shall be determined by presuming the individual's compensation in a calendar year after 1936 to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such calendar year;

(3) The amount of any possible deductions for failure to report an event causing a deduction as provided in subsections (f) and (g)(2) of section 203 of the Social Security Act shall be disregarded; and

(4) (i) A "period of disability," within the meaning of section 216(i) of the Social Security Act, with respect to any individual who has filed an application therefor and who either will have completed ten years of service or will have been awarded an annuity, shall be determined by the Board on the basis of its records or evidence obtained by it.

(ii) In determining a "period of disability" for an individual, the Board shall have the same authority as the Secretary of Health, Education, and Welfare would have to determine such a period for such individual.

(iii) An application filed with the Board for a disability annuity shall be deemed to be an application to determine a "period of disability": *Provided, however,* That such an application filed on or before September 6, 1958, shall be deemed filed on a date after December 1954 and before July 1958; *Provided further,* That such an application filed on or after July 1, 1958, and prior to September 7, 1958, by an individual not entitled to a "period of disability" beginning before July 1, 1958, or such an application filed on or after September 7, 1958, shall be deemed filed on the earlier of: (*a*) The date the application for a disability annuity was filed; or (*b*) if the application for a disability annuity was filed in advance of eligibility, the date on which a letter or notice evidencing the individual's intention to apply or reapply for a disability annuity was received at an office of the Board.

§ 225.12 Rounding annuity.

When awarded on or after September 6, 1958, a monthly annuity that is computed or recomputed under this part and that is not a multiple of $0.10, shall be raised to the next higher multiple of $0.10.

§ 225.13 Commutation of annuity.

When awarded on or after September 6, 1958, a monthly annuity that is less than $5 may be paid quarterly or in a lump sum equal to its commuted value as determined by the Board.

(Sec. 10, 50 Stat. 314, 45 U.S.C. 228(j))

Dated: February 11, 1959.

By authority of the Board.

[SEAL] MARY B. LINKINS,
Secretary of the Board.

[F.R. Doc. 59–1429; Filed, Feb. 17, 1959; 8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 210—PROCUREMENT ACTIVITIES OF THE CORPS OF ENGINEERS

Revision of Part

Sec.

AUTHORITY: §§ 210.1 to 210.4 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

SOURCE: Regulations, ENGAC—31, February 4, 1959.

§ 210.1 Advance notice to prospective bidders.

In connection with all construction projects estimated to cost $100,000 or more for which an invitation is scheduled to be issued, an advance notice to prospective bidders will be prepared sufficiently in advance of the actual issuance of the invitation to stimulate interest on the part of the greatest possible number of contractors. Advance notices may also be prepared on projects estimated to cost less than $100,000 and for supplies where considered desirable. However, when an advance notice is used to circularize prospective bidders, copies of the invitation, when issued, will not be used to again circularize all prospective bidders but will be furnished to only those requesting same. Information on several projects for which invitations are scheduled to be issued may be grouped in one advance notice provided that information on any project or projects is not unduly delayed in order to be grouped with others. Advance notices will contain in general the following information:

(a) Name and address of contracting office.

(b) Invitation number of proposed invitation.

(c) Tentative dates for issuance of invitation and opening of bids or period of advertising.

(d) Description of the work to be performed or supplies to be furnished including approximate quantities except that where a large number of items is involved in a construction project only the most important will be shown or in the case of supply invitations items may be grouped under general headings.

(e) Location of the project including state, county and nearest railhead or point of access, or, in the case of supplies, the point of delivery.

(f) Time allowed for commencement and completion of the work or delivery time.

(g) Bond requirements.

(h) Any other contract provisions or requirements considered of special interest to bidders.

(i) Information on obtaining drawings, specifications and bidding papers, including any deposit required. A suitable form request may be attached to the advance notice for the convenience of prospective bidders and subcontractors in requesting copies of the bidding documents.

§ 210.2 Notice of award.

The successful bidder will be notified in writing of the acceptance of his bid. Under construction contracts, this notice may accompany the contract papers which are forwarded for execution. To avoid error, or confusing the notice of award with a notice to proceed, the notice of award will be substantially in the following form:

You are hereby notified that your bid dated _____ in the sum of $_____ covering _____ is accepted. A formal contract will be prepared for execution. Acceptable performance and payment bonds (if required) must be furnished upon execution of the formal contract. If approval of the contract is required by its express terms, the contract is not fully executed until such approval is obtained. Under supply contracts a written award mailed (or otherwise furnished) to the successful bidder, either on Standard Form 26 or Standard Form 33, results in a binding contract without further action by either party.

§ 210.3 Notice to proceed.

(a) *General.* When the contract specifies the time when the contractor is to proceed with the work under the contract, a notice to proceed will not be required. However, in any case where the contract requires the issuance of a notice to proceed the notice will fix the time for the commencement of the work and also, if appropriate, will fix the time for the completion of the work. The notice to proceed will be executed in a sufficient number of copies to meet the contract distribution requirements in paragraph 30–206, Engineer Contract Instructions (ER 1180–1–1), and will bear the contract number in the upper right-hand corner of the notice.

(b) *Contractor's acknowledgment.* When a notice to proceed is issued, the contractor will acknowledge receipt thereof by signing and dating all copies of the acknowledgment and returning all but one copy to the contracting officer.

(c) *Proceeding before approval of bonds.* It is not necessary to delay commencement under the contract pending approval of bonds by the Judge Advocate General. Such action will be at the discretion of the contracting officer. In the event exceptions are taken to the bonds the contractor will immediately take steps to remove such exceptions or submit new bonds.

(d) *Commencing performance.* Contractors in no case will be required to commence performance prior to the commencement date fixed in the contract or in the notice to proceed. If they voluntarily do so and the contract is not ultimately signed, or approved when required, such action is at their own risk and without liability on the part of the Government. Contractors will not be required to commence performance until:

(1) Performance and payment bonds have been furnished, when required;

(2) The award has been approved, when the approval is required; and

(3) Notice to proceed has been forwarded to the contractor where required.

§ 210.4 Rules of the Corps of Engineers Board of Contract Appeals, Office of the Chief of Engineers.

The following rules are promulgated by the Corps of Engineers, Board of Contract Appeals, Office of the Chief of Engineers, for the guidance of contractors having contracts with the Corps of Engineers, and others concerned:

(a) *Rule 1, appeals, how taken.* An appeal by the contractor from a decision of a contracting officer is to be made in accordance with the requirements of the Disputes article contained in the particular contract. The contractor may file the appeal with the contracting officer.

(b) *Rule 2, duties of contracting officer.* When a notice of appeal in any form has been received by the contracting officer he shall endorse thereon the date of mailing or the date of receipt, if otherwise filed, and within 10 days shall forward the notice of appeal, and the complaint if filed therewith, to the Board. The contracting officer shall promptly thereafter compile and transmit to the Board copies of all documents pertinent to the appeal, including the following:

(1) The findings of fact and the decision from which the appeal is taken, and the letter or letters or other documents of claim in response to which the decision was issued;

(2) The contract and pertinent plans, specifications, amendments, and change orders;

(3) Correspondence between the parties and other data pertinent to the appeal;

(4) Transcripts of any testimony taken during the course of the proceedings on the matter in dispute prior to the filing of the notice of appeal with this Board;

(5) Such additional information as the contracting officer may consider material.

When the Board has received the original notice of appeal the Board will promptly so advise the contractor and the contracting officer, and will forward to the contractor a copy of the rules in this section.

(c) *Rule 3, complaint.* Within 30 days after receipt of notice from the Board that the appeal has been received, or within such longer period of time as may be allowed by the Board, appellant will file with the Board, if not previously filed with the Notice of Appeal, a complaint setting forth simple, concise and direct statements of each of his claims showing that he is entitled to relief, and identifying the contract provision or provisions under which relief is claimed. The complaint shall be limited to those requests for relief which have been presented to and denied by the contracting officer. No technical form is required, but each claim should be separately identified. Documentary evidence in support of claims may be filed as exhibits to the complaint. All documents filed as such exhibits shall be plainly listed and identified in the complaint. An original and three copies of the complaint shall be filed. Upon receipt thereof the Recorder of the Board shall furnish a copy of the complaint, together with any exhibits thereto, to counsel for the Government. In the event the complaint is not filed within the time stated above, the appeal may be dismissed by the Board for lack of prosecution.

(d) *Rule 4, answer.* Within 30 days after service of the complaint, or within such longer period of time as may be allowed by the Board, counsel for the Government shall prepare and file with the Board an answer thereto. The answer shall set forth simple, concise and direct statements of the Government's defenses to each claim asserted by appellant. Each defense shall be stated with as much particularity as is practical. Defenses which go to the juris-

diction of the Board may be included in the answer, or may be raised by motion pursuant to the provisions of Rule 7 (paragraph (g) of this section). Additional documentary evidence in support of the Government's defenses may be filed as exhibits to the answer. All documents filed as exhibits to the answer shall be plainly listed and identified in the answer. An original and three copies of the answer shall be filed with the Board. Upon receipt thereof the Recorder shall serve a copy of the answer on appellant or his attorney and enter the appeal upon the docket of the Board.

(e) *Rule 5, appeal file; inspection of file.* The notice of appeal, the complaint and exhibits attached thereto, the answer and exhibits attached thereto and the documents required to be filed therewith pursuant to Rules 2 and 4 (paragraphs (b) and (d) of this section), all papers filed by the parties with the Board pursuant to the rules of this section, and all correspondence exchanged between the Board and the parties or their attorneys shall constitute the appeal file, which shall be available for inspection at the offices of the Board. Prior arrangements for inspection of the file should be made with the Recorder of the Board.

(f) *Rule 6, amendment of pleadings.* At any time before oral hearing or before submission of a case by the parties without an oral hearing, the Board in its discretion may permit a party, within the proper scope of the appeal, to amend its complaint or answer, upon conditions just to both parties. The Board upon its own initiative or upon application by a party may in its discretion order a party to make a more definite statement of its complaint or answer, or to reply to an answer. When issues within the proper scope of the appeal but not raised by the complaint and answer are determined by express or implied consent of the parties, they shall be treated in all respects as if they had been raised therein. Such amendment of the complaint and answer as may be necessary to cause them to conform to the evidence may be made upon motion at any time, but failure so to amend does not affect the result of the hearing of these issues. If evidence is objected to at the hearing on the ground that it is not within the issues made by the complaint and answer, the hearing member or examiner may allow the pleadings to be amended within the proper scope of the appeal and shall do so freely when the presentation of the merits of the action will be served thereby and the objecting party fails to satisfy the hearing member or examiner that the admission of such evidence would prejudice him in maintaining his case or defense upon the merits. The hearing member or examiner may, however, grant a continuance to enable the objecting party to meet such evidence.

(g) *Rule 7, motions to dismiss.* Defenses which go to the jurisdiction of the Board may be raised by motion. Filing of motions to dismiss for lack of jurisdiction shall not be unreasonably delayed. The Board, however, may at any time decline to proceed with a case in which it lacks authority to decide the issues. Motions to dismiss for lack of jurisdiction shall, on application of either party, be heard and determined before oral hearing on the merits unless the Board orders that determination of the motion be deferred pending oral hearing on both the merits and the motion.

(h) *Rule 8, depositions, procedure for taking*—(1) *Reason for taking.* A deposition may be taken and read, whenever in the discretion of the presiding member it appears that a necessary witness cannot be reasonably expected to be present for oral examination.

(2) *Form and return of deposition to Board.* Each deposition should show the docket number and the caption of the proceeding, the place and date of taking, the name of the witness and the party by whom called. The person recording the deposition shall certify thereon that it is a true record of the testimony given by the witness and shall inclose the original deposition and exhibits, in a sealed packet, with postage or other transportation prepaid and forward the same to the Corps of Engineers Board of Contract Appeals.

(3) *Notice to take.* When either party desires to take a deposition, unless the parties shall stipulate as to the time when and place where the deposition is to be taken and the name and address of the witness, such party should give to the opposite party at least 15 days' notice of the time when and the place where such deposition will be taken as well as the name of the witness. Depositions may be taken upon oral or written interrogatories. Copies of the written interrogatories should accompany the notice to take depositions. If the opposite party desires to submit cross-interrogatories, the cross-interrogatories should be served upon the party giving the notice within 10 days from the receipt of the notice to take the deposition.

(i) *Rule 9, prehearing conferences.* In any case the Board in its discretion, upon its own initiative or upon the application of one of the parties, may call upon the parties or their attorneys or representatives to appear before a member or examiner of the Board for a conference to consider:

(1) The simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(4) The limitation of the number of expert witnesses;

(5) Such other matters as may aid in the disposition of the appeal.

The presiding member or examiner, at the conclusion of such a conference, shall make such order as in his discretion is found to be appropriate with reference to action taken at the conference, amendments allowed or to be made to the pleadings, agreements made by the parties as to any of the matters considered, and limitation of issues for trial.

(j) *Rule 10, hearings and nature thereof.* (1) The appellant, or the Government, upon request, will be accorded a full and complete hearing, at which may be offered the testimony of witnesses, which witnesses shall be subject to cross-examination by the opposing party. Hearings will be as informal as may be reasonably allowable and appropriate under all the circumstances. Appellant and Government counsel may offer at a hearing on the merits such relevant and material evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence; subject, however, to the exercise of reasonable discretion by the presiding member, supervising the extent, nature, and manner of presentation of such evidence. Letters or copies thereof, affidavits, or other evidence, not ordinarily admissible under the generally accepted rules of evidence, may be received in evidence in the discretion of the presiding member. The weight to be attached to evidence presented in any particular form will be determined by the Board in the exercise of reasonable discretion under all circumstances of the particular case. The parties may, by stipulation in writing filed with the Board, agree upon the facts or any portion thereof involved in the appeal, and the stipulation may be regarded and used in evidence at the hearing; the parties may also stipulate the testimony that would be given by a witness if the witness were present. The Board may, however, in such cases, require additional evidence.

(2) Also, in the discretion of the Board, if neither side desires a hearing, the appellant at his request will be accorded a conference with one or more members of the Board. This type procedure is not for the purpose of introducing new matter but is for the purpose of explaining or arguing matters of record. If any new matter is introduced at such a conference, consideration of appeal will be deferred until the contracting officer has been apprised thereof and has had an opportunity to reply. The contracting officer or his representative will be afforded the right to be present at such conference.

(k) *Rule 11, examination of witnesses.* Witnesses before the Board or a designated member thereof, will be examined orally, unless the facts are stipulated or the Board or designated member thereof shall otherwise order. The testimony of a witness is subject to the provisions of Title 18, U.S.C., secs. 287, 1001; and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

(l) *Rule 12, submission without a hearing.* At the option of both parties the case may be submitted to and decided by the Board on the basis of the record supplemented as desired by either party by briefs or memoranda. Unless advised to the contrary by appellant within 15 days after notification of docketing, the Board will proceed with the case as if submitted by appellant on the record.

(m) *Rule 13, supplementation of the record.* Prior to action by the Board to dispose of the case the parties may file (in quadruplicate) directly with the Board or with the contracting officer for

transmittal to the Board any documents pertinent to the appeal.

(n) *Rule 14, hearings, where held.* Hearings will be held at the office of the Board unless it is otherwise ordered by the Board. The Board will consider a request for a hearing at another location if compelling reasons are timely presented.

(o) *Rule 15, notice of hearing.* The appellant and the Government counsel will be given at least 15 days' notice of the time and place of hearing. Continuances will not be granted except upon written request and for good cause.

(p) *Rule 16, absence of parties or counsel.* The unexcused absence of a party or his authorized representative at the time and place set for the hearing will not be the occasion for delay. In such event the hearing will proceed and the case will be regarded as submitted by the absent party.

(q) *Rule 17, briefs.* All briefs shall be filed within 20 days after conclusion of the hearing, or within such other period of time as may be allowed by the Board.

(r) *Rule 18, copies of papers.* When books, records, papers, or documents have been received in evidence, a copy thereof or of such part thereof as may be material or relevant may be substituted therefor.

(s) *Rule 19, withdrawal of exhibits.* After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

(t) *Rule 20, transcript of proceedings.* Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts of the proceedings shall be supplied to the parties at such rates as may be fixed by the contract between the Board and the reporter. If the proceedings are reported by an employee of the Government, the appellant may receive transcripts upon payment to the Government at the same rates as those set by the independent reporter under contract to the Board.

(u) *Rule 21, representation*—(1) *The contractor.* An individual appellant may appear before the Board in person; a corporation will be represented by an officer thereof; a partnership or joint venture will be represented by a member thereof. Any appellant may be represented by an attorney at law duly licensed in any State, Commonwealth, Territory, or in the District of Columbia. The Board may authorize a contractor to appear by a duly authorized representative other than those mentioned in a special case, but for the purposes of that case only. Any representative of the appellant who is an officer or employee (civilian or military) of the United States Government, or a former officer or employee (civilian or military) of the Government whose active service or employment terminated within the past two years or a retired officer of the Regular component of the Armed Forces shall file a Notice of Appearance on DA Form 1627 with the contracting officer or the Recorder of the Board. A copy of the form of Notice of Appearance may be obtained from either the contracting officer or the Recorder of the Board. The representative of the appellant must conform in all respects with the requirements of Army Regulations 632–35, contained in 32 CFR 583.1.

(2) *Status of Government counsel.* Government counsel shall file Notice of Appearance with the Board and notice thereof will be given appellant or to his attorney.

(v) *Rule 22, continuances pending reconsideration by the parties.* Whenever at any time it appears that appellant and contracting officer or their counsel are in agreement as to the disposition of the controversy either in whole or in part, the Board may suspend further processing of the appeal in order to permit reconsideration by the parties: *Provided, however,* That if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement the case shall be restored to the Board's calendar for hearing without loss of position.

(w) *Rule 23, findings and decisions of the board.* Findings and decisions of the Board will be made in writing, and authenticated copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final opinions and orders except those required for good cause to be held confidential shall be available to public inspection at the offices of the Board in Washington, D.C.

(x) *Rule 24, motions for reconsideration.* Motions for reconsideration or rehearing, if filed by either party, shall set forth specifically the grounds relied upon to sustain the motion and shall be filed within 30 days from the date of the receipt of the copy of a decision of the Board by the party filing the motion. Ordinarily, such motions will not be allowed except upon a showing that (1) new and material evidence has been discovered and was not previously presented and considered by the Board, or (2) that the decision rendered is not supported by the weight of the evidence. In either case, it shall be incumbent upon the petitioner for reconsideration to specifically state in his motion the detailed evidence upon which he relies in support of his motion.

(y) *Rule 25, appeals pending litigation.* The Board will not proceed with its consideration of an appeal if at any stage during the appelate process the same cause of action between the same parties which is the subject of the appeal is pending in litigation before any court; unless (1) the appellant within a reasonable time obtains and files with the Board a copy of an order of such court certified by the clerk thereof staying or suspending further proceedings in such court pending completion of administrative action by the Board, or upon remand, by the contracting officer involved; and (2) the Board in its discretion undertakes to and does obtain clearance from the Department of Justice for further administrative consideration and final disposition of the appeal.

(z) *Rule 26, effective date of rules.* The rules of this section shall be effective on all appeals made on or after February 1, 1959.

[SEAL] R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 59–1427; Filed, Feb. 17, 1959; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12496; FCC 59–107]

PART 66—APPLICATIONS RELATING TO CONSOLIDATION, ACQUISITION OR CONTROL OF TELEPHONE COMPANIES

Publication and Posting of Notices; Procedure

1. On June 19, 1958, the Commission released a Notice of Proposed Rule Making proposing to amend Part 66 of its rules and regulations relating to applications filed under section 221(a) of the Communications Act of 1934, as amended, as follows:

(a) To specify 40 days in lieu of the present 30-day period following the posting of notice by the applicant, as required by § 66.13(a), during which time interested parties may submit comments, protests, or requests that public hearings be held with respect to such applications,

(b) To require that requests for public hearing must be filed with the Commission within 40 days from the date upon which applicant first posts public notice concerning the filing of the application, as required by § 66.13(a),

(c) To provide that any person requesting a public hearing should accompany such request with a statement as to why the proposed transaction will not be of advantage to the persons to whom service is to be rendered, or will not be in the public interest.

2. This Notice was published in the FEDERAL REGISTER on June 25, 1958, (23 F.R. 4648) in accordance with section 4(a) of the Administrative Procedure Act. Interested persons were given until August 1, 1958, to file comments on the proposed rules and ten days thereafter were allowed for filing comments or briefs in reply to the original comments. The time for filing comments regarding the above-mentioned Proposed Rule Making has expired. The Commission received timely comments from the American Telephone and Telegraph Company (AT&T) on behalf of the Bell System Telephone Companies and the United States Independent Telephone Association (USITA). No comments or briefs in reply to the original comments were received, and no one requested a public hearing with respect to this matter. AT&T supported the proposed revisions in their entirety.

3. USITA suggests that the time period in § 66.13(a)5, during which comments and protests concerning the application may be submitted by interested persons,

be increased to 60 days in lieu of the 40 days proposed herein by the Commission. USITA states that a longer period is reasonable in order to give an adequate opportunity to the telephone companies and associations of telephone companies concerned to study the application, investigate and ascertain the circumstances surrounding the proposed acquisition and determine whether to request the Commission to set the application for hearing.

4. The Commission recognizes the importance of providing interested parties with sufficient time in which to evaluate the transaction covered by such an application, and to decide what representations, if any, should be made to the Commission with respect thereto. It nevertheless appears from our experience with these matters over the years that a 40-day notice period should provide adequate time in this regard. The large majority of such applications involve transactions, the merits of which are seldom in dispute. Generally, they affect communities in which there is a strong public demand and requirement for immediate improvement and rehabilitation of telephone service and facilities, and the applicant is prepared and qualified to do the job. In the relatively few cases where interested parties may require additional time to decide whether to request a public hearing with respect to a given application, such parties can, during the initial 40-day period, request additional time for that purpose. The Commission therefore concludes that the proposed 40-day period is adequate to permit interested parties reasonable time to prepare and file comments or requests for public hearing with respect to applications under section 221 (a) of the Act.

5. USITA also proposes that the 40-day time period be measured from the date the application is filed with the Commission, in lieu of the date that the applicant first posts notice pursuant to § 66.13 (a). In support of its proposal, USITA states that the filing date is more readily ascertainable. It is to be noted, that, under § 66.13, the applicant is required to post notice "immediately upon the filing of the application" and, therefore, the date of filing and the date of posting should correspond quite closely. In addition, the requirements for the posting and publication of notice are designed to inform persons in the affected area of the proposed transaction and of the fact that they can submit comments or protests to the Commission "on or before a specified date which shall be 40 days from the date of first posting of the notice". To utilize any other method of measuring the time period would make it impractical for the posted notice to specify the termination date of such period, and still allow 40 days during which such parties can submit their views to the Commission. This conclusion follows from the fact that the applicant will not receive notice of the acceptance of the application and have opportunity to post the required notice until several days after the application has been filed. Thus, any delay in the posting of notice will foreshorten the time period for submission of comments and protests by persons in the affected area. Accordingly, the suggestion of USITA with respect to measuring the time period is not being adopted.

6. USITA opposes the proposed rule which would require that any party submitting a request for a public hearing shall also submit a statement of reasons as to why the proposed transaction will not be of advantage to the persons to whom service is to be rendered or will not be in the public interest. In support thereof, USITA states that (a) the proposed rule clearly exceeds any statutory authorization and does violence to the legislative history of Public Law No. 914, under which public hearings are mandatory only if requested by a telephone company, an association of telephone companies, a State commission, or local governmental authority; and, (b) there is no apparent reason why there need be any different procedural requirement for a statement of interest by a party seeking to appear in opposition to a section 221(a) application than that which is required of parties seeking to oppose applications filed pursuant to other provisions of the Act where hearings are required by law. In view of the questions raised by USITA in this regard, but without conceding the validity thereof, the Commission will not adopt the proposed revised rule to require a statement of reasons underlying requests for public hearings by the entities specified in section 221(a) of the Act. It is to be understood, however, that this decision is without prejudice to any future rule-making action that the Commission may take in this direction should circumstances arise which indicate that such action may be necessary or desirable to the execution of our functions.

7. Aside from its comments with respect to the amendments proposed in this proceeding, USITA also suggested that Part 66 of the rules be amended in the following respects:

(a) To require the applicant to give notice of the filing of the application to USITA and to the State telephone association of the State wherein the property is located;

(b) To require in each application a statement as to whether any other telephone company is interested in acquiring the telephone properties involved, and if so, to submit the name of such other company and a statement as to which of the advantages set forth in response to § 66.11(o) of the rules it is believed could not accrue to the persons to be served as a result of acquisition by such other company.

USITA suggests that, in the event the foregoing proposals are deemed by the Commission to go beyond the scope of the instant proceeding, that they be brought within the scope by the issuance of a Further Notice of Proposed Rule Making.

8. The Commission wishes to point out that USITA's suggestion outlined in paragraph 7(a) above was also advanced by USITA in its comments with respect to the original promulgation of Part 66 in Docket No. 11809. At that time, the Commission gave careful consideration to the matter of giving direct notice to telephone companies and associations but concluded that the method proposed by USITA was not only unnecessary but would place an unreasonable burden upon the applicant (Order No. FCC 56-1217, Docket No. 11809). In the instant proceeding, USITA has submitted no new or additional reasons as to why the present method of notifying interested parties is inadequate or not in compliance with the requirements of the Act. Accordingly, the USITA suggestion that such a revision be adopted is rejected, and similarly the USITA request for a further rule-making proceeding is denied.

9. USITA's proposal outlined in paragraph 7(b) above would, in effect, require an applicant to assess the capabilities of another telephone company. This would appear to require a knowledge by the applicant of the financial position of the other company, its potential for expanding service, and its readiness to acquire other properties and similar details. This information is unlikely to be fully available to the applicant in all cases, and in any case where it may be available, applicant's conclusions based thereon would be of limited value. In our opinion, the burden to furnish the Commission with information with respect to competitive offers to purchase property which is the subject of an application filed under section 221(a) of the Act should be upon the persons making such offers rather than upon the applicant. Our rules insure adequate notice of the filing of such applications to all interested parties and adequate time for such parties to bring to the Commission's attention relevant information with respect to competitive offers. This proposal of USITA is therefore rejected.

It appearing that the proposed rule-making proceeding in this matter has indicated the desirability of adopting these rules, except as indicated herein above;

It is ordered, That, under the authority contained in section 4(i) and 221(a) of the Communications Act of 1934, as amended, the Commission's rules and regulations are amended as set forth below, effective February 24, 1959.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies Sec. 221, 70 Stat. 932; 47 U.S.C. 221)

Adopted: February 11, 1959.

Released: February 13, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

§ 66.13 [Amendment]

Section 66.13(a) (5) is amended to read as follows:

(5) A statement that any member of the public desiring to protest or support the application may communicate in writing with the Federal Communications Commission, Washington 25, D.C., on or before a specified date which shall be forty (40) days from the date of first posting of the notice.

Section 66.15 is amended to read as follows:

§ 66.15 Procedure.

A public hearing is held with respect to such applications where a request therefor is made by a telephone company, an association of telephone companies, a State Commission or local governmental authority, or in such other cases as the Commission may determine. Requests for public hearing must be filed within forty (40) days from the date that the applicant first posts public notice of the filing of the application as required by § 66.13. Where a public hearing is to be held, reasonable notice thereof is given by the Commission to the Governor of each State in which the physical property affected, or any part thereof, is situated, and to the State Commission having jurisdiction over the telephone companies and to such other parties as the Commission may deem advisable.

[F.R. Doc. 59-1455; Filed, Feb. 17, 1959; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER D—FREIGHT FORWARDERS

PART 400—CONTRACTS, FORWARDERS—MOTOR COMMON CARRIERS

Filing of Contracts Between Freight Forwarders and Motor Common Carriers

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 5th day of February A.D. 1959.

It appearing that by order entered herein on June 4, 1951, rules and regulations were prescribed governing the filing with the Commission of contracts entered into or continued pursuant to section 409 of the Interstate Commerce Act; that in accordance with § 400.1 of said order three copies of such contracts and amendments thereto are required to be filed with the Commission, but it has developed that two copies are now sufficient; and that, therefore, appropriate modification of the said rules and regulations is warranted; and the Commission so finding:

It is ordered. That § 400.1 of said order of June 4, 1951, be, and it is hereby, modified to read as follows:

§ 400.1 Filing.

All contracts, and amendments thereto, between freight forwarders and motor common carriers, entered into pursuant to section 409 of the Interstate Commerce Act, as amended December 20, 1950, and amendments to contracts continued, shall be in writing, and the freight forwarder party thereto shall file with the Interstate Commerce Commission two true and legible copies thereof on paper of good quality, size 8½ x 11".

It is further ordered, That notice of this order shall be given to every freight forwarder subject to the act and to the general public by posting copies thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Federal Register Division.

(Sec. 403, 56 Stat. 285; 49 U.S.C. 1003)

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-1446; Filed, Feb. 17, 1959; 8:48 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Personal Holding Companies and Foreign Personal Holding Companies

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM, *Commissioner of Internal Revenue.*

The Income Tax Regulations (26 CFR (1954) Part 1) are hereby amended to reflect the changes made by sections 32 and 33 of the Technical Amendments Act of 1958 (72 Stat. 1631 and 1632). Except as otherwise provided, the regulations, as so amended, are applicable to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

PARAGRAPH 1. Section 1.545 is amended:

(A) By striking out section 545(b)(2) and inserting in lieu thereof the following:

(2) *Charitable contributions.* The deduction for charitable contributions provided under section 170 shall be allowed, but in computing such deduction the limitations in section 170(b)(1)(A) and (B) shall apply, and section 170(b)(2) shall not apply. For purposes of this paragraph, the term "adjusted gross income" when used in section 170(b)(1) means the taxable income computed with the adjustments (other than the 5-percent limitation) provided in the first sentence of section 170(b)(2) and without deduction of the amount disallowed under paragraph (8) of this subsection.

(B) By inserting before the period at the end of section 545(b)(4) "computed without the deductions provided in part VIII (except section 248) of subchapter B".

(C) By adding the following historical note at the end thereof:

[Sec. 545 as amended by sec. 32, Technical Amendments Act 1958 (72 Stat. 1631)]

As so amended section 545(b)(2) and (4) and the historical note in § 1.545 will read as follows:

§ 1.545 Statutory provisions; undistributed personal holding company income.

SEC. 545. *Undistributed personal holding company income.* * * *

(b) *Adjustments to taxable income.* For the purposes of subsection (a), the taxable income shall be adjusted as follows:

* * * * *

(2) *Charitable contributions.* The deduction for charitable contributions provided under section 170 shall be allowed, but in computing such deduction the limitations in section 170(b)(1)(A) and (B) shall apply, and section 170(b)(2) shall not apply. For purposes of this paragraph, the term "adjusted gross income" when used in section 170(b)(1) means the taxable income computed with the adjustments (other than the 5-percent limitation) provided in the first sentence of section 170(b)(2) and without deduction of the amount disallowed under paragraph (8) of this subsection.

* * * * *

(4) *Net operating loss.* The net operating loss deduction provided in section 172 shall not be allowed, but there shall be allowed as a deduction the amount of the net operating loss (as defined in section 172(c)) for the preceding taxable year computed without the deductions provided in part VIII (except section 248) of subchapter B.

* * * * *

[Sec. 545 as amended by sec. 32, Technical Amendments Act 1958 (72 Stat. 1631)]

PAR. 2. Paragraphs (b) and (d) of § 1.545-2 are amended to read as follows:

§ 1.545-2 Adjustments to taxable income.

* * * * *

(b) *Charitable contributions.* (1) Section 545(b)(2) provides that, in computing the deduction for charitable contributions for purposes of determining the undistributed personal holding company income of a corporation, the limitations in section 170(b)(1)(A) and (B)

(relating to charitable contributions by individuals) shall apply and section 170(b)(2) (relating to charitable contributions by corporations) shall not apply.

(2) Although the limitations of section 170(b)(1) (A) and (B) are 10 and 20 percent, respectively, of the individual's adjusted gross income, the limitations are applied for purposes of section 545(b)(2) by using 10 and 20 percent, respectively, of the corporation's taxable income as adjusted for purposes of section 170(b)(2) (that is, the same amount of taxable income to which the 5-percent limitation applied). Thus, the term "adjusted gross income" when used in section 170(b)(1) means the corporation's taxable income computed with the adjustments (other than the 5-percent limitation) provided in the first sentence of section 170(b)(2). However, a further adjustment for this purpose is that the taxable income shall also be computed without the deduction of the amount disallowed under section 545(b)(8) (relating to expenses and depreciation applicable to property of the taxpayer). The carryover of charitable contributions made in a prior year, otherwise allowable as a deduction in computing taxable income to the extent provided in section 170(b)(2), shall not be allowed as a deduction in computing undistributed personal holding company income for any taxable year.

(3) See the regulations under section 170(b)(1) (A) and (B) with respect to the charitable contributions to which the 10-percent limitation is applicable and the charitable contributions to which the 20-percent limitation is applicable.

* * * * *

(d) *Net operating loss.* The net operating loss deduction provided in section 172 is not allowed for purposes of the computation of undistributed personal holding company income. For purposes of such a computation, however, there is allowed as a deduction the amount of the net operating loss (as defined in section 172(c)) for the preceding taxable year, except that, in computing undistributed personal holding company income for a taxable year beginning after December 31, 1957, the amount of such net operating loss shall be computed without the deductions provided in part VIII (except section 248, relating to organizational expenditures) of subchapter B of chapter 1 of the Code.

* * * * * *

PAR. 3. Section 1.556 is amended—

(A) By striking out the first sentence of section 556(b)(2) and inserting in lieu thereof the following: "The deduction for charitable contributions provided under section 170 shall be allowed, but in computing such deduction the limitations in section 170(b)(1) (A) and (B) shall apply, and section 170(b)(2) shall not apply."

(B) By striking out "the taxable income computed with the adjustments provided in section 170(b)(2)" appearing in the second sentence of section 556(b)(2) and inserting in lieu thereof "the taxable income computed with the adjustments (other than the 5-percent limitation) provided in the first sentence of section 170(b)(2)".

(C) By striking out "sections 242 and 248" appearing in section 556(b)(3) and inserting in lieu thereof "section 248".

(D) By inserting before the period at the end of section 556(b)(4) "computed without the deductions provided in part VIII (except section 248) of subchapter B".

(E) By adding the following historical note at the end thereof:

[Sec. 556 as amended by sec. 33, Technical Amendments Act 1958 (72 Stat. 1632)]

As so amended section 556(b)(2), (3), and (4) and the historical note in § 1.556 will read as follows:

§ 1.556 Statutory provisions; undistributed foreign personal holding company income.

SEC. 556. *Undistributed foreign personal holding company income.* * * *

(b) *Adjustments to taxable income.* For the purposes of subsection (a), the taxable income shall be adjusted as follows:

* * * * *

(2) *Charitable contributions.* The deduction for charitable contributions provided under section 170 shall be allowed, but in computing such deduction the limitations in section 170(b)(1) (A) and (B) shall apply, and section 170(b)(2) shall not apply. For purposes of this paragraph, the term "adjusted gross income" when used in section 170(b)(1) means the taxable income computed with the adjustments (other than the 5-percent limitation) provided in the first sentence of section 170(b)(2) and without the deduction of the amounts disallowed under paragraphs (5) and (6) of this subsection or the inclusion in gross income of the amounts includible therein as dividends by reason of the application of the provisions of section 555(b) (relating to the inclusion in gross income of a foreign personal holding company of its distributive share of the undistributed foreign personal holding company income of another company in which it is a shareholder).

(3) *Special deductions disallowed.* The special deductions for corporations provided in part VIII (except section 248) of subchapter B (section 241 and following, relating to the deduction for dividends received by corporations, etc.) shall not be allowed.

(4) *Net operating loss.* The net operating loss deduction provided in section 172 shall not be allowed, but there shall be allowed as a deduction the amount of the net operating loss (as defined in section 172(c)) for the preceding taxable year computed without the deductions provided in part VIII (except section 248) of subchapter B.

* * * * *

[Sec. 556 as amended by sec. 33, Technical Amendments Act 1958 (72 Stat. 1632)]

PAR. 4. Paragraphs (b), (c), and (d) of § 1.556–2 are amended to read as follows:

§ 1.556–2 Adjustments to taxable income.

* * * * *

(b) *Charitable contributions.* (1) Section 556(b)(2) provides that, in computing the deduction for charitable contributions for purposes of determining the undistributed foreign personal holding company income of a corporation, the limitations in section 170(b)(1) (A) and (B) (relating to charitable contributions by individuals) shall apply and section 170(b)(2) (relating to charitable contributions by corporations) shall not apply.

(2) Although the limitations of section 170(b)(1) (A) and (B) are 10 and 20 percent, respectively, of the individual's adjusted gross income, the limitations are applied for purposes of section 556(b)(2) by using 10 and 20 percent, respectively, of the corporation's taxable income as adjusted for purposes of section 170(b)(2) (that is, the same amount of taxible income to which the 5-percent limitation applied). Thus, the term "adjusted gross income" when used in section 170(b)(1) means the corporation's taxable income computed with the adjustments (other than the 5-percent limitation) provided in the first sentence of section 170(b)(2). However, a further adjustment for this purpose is that the taxable income shall also be computed without the deduction of the amount disallowed under section 556(b)(5) (relating to expenses and depreciation applicable to property of the taxpayer), and section 556(b)(6) (relating to taxes and contributions to pension trusts), and without the inclusion of the amounts includible as dividends under section 555(b) (relating to the inclusion in gross income of a foreign personal holding company of its distributive share of the undistributed foreign personal holding company income of another company in which it is a shareholder). The carryover of charitable contributions made in a prior year, otherwise allowable as a deduction in computing taxable income to the extent provided in section 170(b)(2), shall not be allowed as a deduction in computing undistributed foreign personal holding company income for any taxable year.

(3) See the regulations under section 170(b)(1) (A) and (B) with respect to the charitable contributions to which the 10-percent limitation is applicable and the charitable contributions to which the 20-percent limitation is applicable.

(c) *Special deductions disallowed.* Part VIII of subchapter B of chapter 1 of the Code allows corporations special deductions in computing taxable income for such matters as partially tax-exempt interest, certain dividends received, dividends paid on certain preferred stock of public utilities, organizational expenses, etc. See section 241. For purposes of computing undistributed foreign personal holding company income, such special deductions, except the deduction provided by section 248 (relating to organizational expenditures) and, with respect to such a computation for a taxable year ending before January 1, 1958, the deduction provided by section 242 (relating to partially tax-exempt interest), shall be disallowed.

(d) *Net operating loss.* The net operating loss deduction provided in section 172 is not allowed for purposes of the computation of undistributed foreign personal holding company income. For purposes of such a computation, however, there is allowed as a deduction the amount of the net operating loss (as defined in section 172(c)) for the preceding taxable year, except that, in computing undistributed foreign personal holding company income for a taxable year ending after December 31, 1957, the amount of such net operating loss shall

be computed without the deductions provided in part VIII (except section 248, relating to organizational expenditures) of subchapter B of chapter 1 of the Code.

PAR. 5. The following new section is inserted immediately after § 1.57:

§ 1.558 Statutory provisions; returns of officers, directors, and shareholders of foreign personal holding companies.

SEC. 558. *Returns of officers, directors, and shareholders of foreign personal holding companies.* For provisions relating to returns of officers, directors, and shareholders of foreign personal holding companies, see section 6035.

[Sec. 558 as added by sec. 33(d), Technical Amendments Act 1958 (72 Stat. 1632)]

[F.R. Doc. 59-1437; Filed, Feb. 17, 1959; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

[7 CFR Part 728]

WHEAT

Notice of Determinations To Be Made With Respect to Marketing Quotas, National, State, and County Acreage Allotments, and County Normal Yields For 1960 Crop

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301, 1332, 1333, 1334, 1335), the Secretary of Agriculture is preparing to determine whether marketing quotas are required to be proclaimed for the 1960 crop of wheat, to determine and proclaim the national acreage allotment for the 1960 crop of wheat, to apportion among States and counties the national acreage allotment for the 1960 crop of wheat, and to formulate regulations for establishing county normal yields for the 1960 crop of wheat.

Section 335 of the act provides that whenever in the calendar year 1959 the Secretary determines (1) that the total supply of wheat for the 1959–60 marketing year will exceed the normal supply for such marketing year by more than 20 per centum, or (2) that the total supply of wheat for the 1958–59 marketing year is not less than the normal supply for such marketing year and that the average farm price for wheat for three consecutive months of such marketing year does not exceed 66 per centum of parity, the Secretary shall, not later than May 15, 1959, proclaim such fact and a national marketing quota shall be in effect on the marketing of wheat during the 1960–61 marketing year.

Section 336 of the act provides that between the date of issuance of any proclamation of any national marketing quota for wheat and July 25, the Secretary shall conduct a referendum by secret ballot, of farmers subject to the quota specified therein to determine whether such farmers favor or oppose such quota.

Section 333 of the act provides that the national acreage allotment shall be that acreage which the Secretary determines will, on the basis of the national average yield for wheat, produce an amount thereof adequate, together with the estimated carry-over at the beginning of the marketing year for such crop and imports, to make available a supply for such marketing year equal to a normal year's domestic consumption and exports plus 30 per centum thereof; but such allotment for any year shall not be less than 55 million acres. Section 332 of the act requires that the Secretary, not later than May 15, 1959, shall ascertain and proclaim the national acreage allotment for the 1960 crop of wheat.

As defined in section 301 of the act, for the purpose of these determinations, "total supply" for any marketing year is the carry-over of wheat for such marketing year, plus the estimated production of wheat in the United States during the calendar year in which such marketing year begins and the estimated imports of wheat into the United States during such marketing year; "normal supply" for any marketing year is the estimated domestic consumption of wheat for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus the estimated exports of wheat for the marketing year for which normal supply is being determined, plus 20 per centum of such consumption and exports, with such adjustments for current trends in consumption and for unusual conditions as deemed necessary; "normal year's domestic consumption" of wheat is the yearly average quantity of wheat that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption; "normal year's exports" of wheat is the yearly average quantity of wheat produced in the United States that was exported from the United States during the ten marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports; "marketing year" for wheat is the period July 1–June 30; and "national average yield" of wheat is the national average yield of wheat for the ten calendar years preceding the year in which such national average yield is used, adjusted for abnormal weather conditions and for trends in yields.

Section 334(a) of the act requires that the national acreage allotment of wheat for the 1960 crop, less a reserve of not to exceed one per centum thereof, be apportioned among the several States on the basis of the acreage seeded for the production of wheat during the ten calendar years 1949–1958 (plus, in applicable years, the acreage diverted under agricultural adjustment, conservation, and soil bank program), with adjustments for abnormal weather conditions and trends in acreage during such period. Section 334(b) of the act requires that the State acreage allotment of wheat for the 1960 crop, less a reserve of not to exceed 3 per centum thereof, be apportioned among the counties in the State on the basis of the acreage seeded for the production of wheat during the ten calendar years 1949–1958 (plus, in applicable years, the acreage diverted under agricultural adjustment, conservation, and soil bank programs), with adjustments for abnormal weather conditions and trends in acreage during such period and for the promotion of soil-conservation practices.

Section 335(e) of the act provides that if for any marketing year the acreage allotment for wheat for any State is twenty-five thousand acres or less, the Secretary in order to promote efficient administration of the act and the Agricultural Act of 1949 may designate such State as outside the commercial wheat-producing area for such marketing year. The acreage allotment for any other State shall not be increased by reason of such designation.

Section 106(a) of Public Law 540, 84th Congress, provides that in the future establishment of State, county, and farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended, reserve acreages applicable to any commodity shall be credited to the State, county, and farm as though such acreage had actually been devoted to the production of the commodity. Section 106(b) of Public Law 540 provides that in applying the provisions of paragraph (6) of Public Law 74, 77th Congress, relating to reduction of the storage amounts of wheat, the reserve acreage of the commodity on any farm shall be regarded as wheat acreage.

Section 377 of the act provides that in any case in which, during any year within the period 1956 to 1959, inclusive, for which acreage planted to such commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm shall be considered for purposes of future State, county and farm acreage allotments to have been planted to such commodity in such year, except that for 1956, the entire allotment shall be considered as planted to the commodity for such purposes only if the owner or operator of such farm notifies the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment. This section is not applicable in any case in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted.

Section 334(g) of the act, as added by section 2 of Public Law 1021, 84th Congress, provides that if the county committee determines that any farmer is prevented from seeding wheat for harvest as grain in his usual planting season because of unfavorable weather conditions and the operator of the farm notifies the county ASC committee not later than December 1, in any area where only winter wheat is grown or June 1, in the spring wheat area, that he does not intend to seed his full wheat allotment because of the unfavorable weather conditions, the entire wheat allotment for such year shall be regarded as wheat acreage for the purpose of establishing future State, county, and farm acreage allotments, but that the provision shall

not be applicable in any case in which the amount of wheat of a prior crop required to be stored to avoid or postpone payment of penalty has been reduced because the allotment was not fully planted or because of producing less than the normal production of the farm wheat acreage allotment.

Section 334(h) of the act, as added by section 2 of Public Law 85–203, 85th Congress, provides that "notwithstanding any other provision of law, no acreage in the commercial wheat-producing area seeded to wheat for harvest as grain in 1958 or thereafter in excess of acreage allotments shall be considered in establishing future State, county, and farm acreage allotment."

Section 301(b)(13) of the act provides for the determination of county normal yields of wheat on the basis of the average yields per acre of wheat for the county during the ten calendar years immediately preceding the year in which such normal yield is determined, adjusted for abnormal weather conditions and trends in yields. Provision is also made that if for any year during such 10-year period the data are not available, or there is no actual yield, an appraised yield for such year shall be determined in accordance with regulations issued by the Secretary of Agriculture; and that such normal yield per acre for any county need be redetermined only when the actual average yield for the ten calendar years immediately preceding the calendar year in which such yield is being reconsidered differs by at least 5 per centum from the actual average yield for the 10 years upon which the existing normal yield per acre for the county was based.

It is proposed that in connection with apportionment of the national wheat acreage allotment among States a reserve of not to exceed one per centum of the national acreage allotment shall be withheld for apportionment to counties on the basis of their relative needs for additional allotment because of reclamation or other new areas coming into the production of wheat during the preceding ten calendar years as authorized by section 334(a) of the act.

It is proposed that in connection with the apportionment of the State acreage allotments among counties the State Agricultural Stabilization and Conservation Committee for each State with the approval of the Secretary of Agriculture shall determine the percentage of the State acreage allotment, not in excess of three per centum, which shall be reserved for apportionment to farms in the State on which wheat will be produced for 1960 for the first time since 1956.

It is also proposed that in connection with the apportionment of the State acreage allotment among the counties, that the adjustment for the promotion of soil conservation practices be limited to a smaller amount than was permitted in 1959.

Prior to making any of the foregoing determinations with respect to marketing quotas and national, State, and county acreage allotments, including the determination and allocation of reserves for the 1960 crop of wheat, the date of the referendum, and the formulation of regulations for the establishment of county normal yields for the 1960 crop of wheat, consideration will be given to data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Grain Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D.C. All written submissions must be postmarked not later than thirty days after the date of publication of this notice in the FEDERAL REGISTER.

Issued at Washington, D.C., this 13th day of February 1959.

[SEAL] WALTER C. BERGER,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59–1469; Filed, Feb. 17, 1959; 8:50 a.m.]

[7 CFR Part 730]

RICE

Notice of Formulation of Proposed Amendments to Marketing Quota Regulations for 1958 and Subsequent Crop Years

Pursuant to the authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301, 1351–1356, 1372–1375), and to become effective with the 1959 crop of rice, the Secretary of Agriculture is preparing to formulate and issue amendments to the rice marketing quota regulations covering (1) a change in the definition of "rice acreage" so as to exclude any acreage of rice in excess of the allotment on a wildlife refuge farm consisting solely of Federal or State-owned land: *Provided,* That such acreage is not harvested, but is left on the land for wildlife feed; (2) the issuance of marketing certificates in lieu of marketing cards to agricultural experiment stations for more effective administration of the program; (3) a requirement that the buyer shall remit the amount of the penalty upon his failure to collect the penalty due from a producer upon unauthorized depletion of stored excess rice; (4) clarification of the provision that the producer shall be liable for all storage charges or liens of any kind on any rice delivered to the Secretary to avoid payment of penalty; and (5) a requirement that rice of one crop substituted for rice of a prior crop stored to avoid or postpone penalty shall not be effective unless the new crop rice is actually in storage at the time of the removal from storage of the prior crop rice.

Prior to the issuance of such amendments to the rice marketing quota regulations, consideration will be given to any data, views, or recommendations pertaining thereto, which are submitted in writing to the Director, Grain Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D.C. All submissions must be postmarked not later than thirty days from the date of publication of this notice in the FEDERAL REGISTER in order to be considered.

Issued this 10th day of February 1959.

[SEAL] CLARENCE D. PALMBY,
Acting Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59–1468; Filed, Feb. 17, 1959; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 12763; FCC 59–112]

TELEVISION BROADCAST STATIONS

Table of Assignments; Mount Pleasant and West Branch, Mich.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it for consideration a petition filed on November 13, 1958, by Central Michigan College, Mount Pleasant, Michigan, requesting the institution of rule-making to amend § 3.606 of the Table of Assignments, Television Broadcast Stations, by making the following changes in television assignments in Mount Pleasant and West Branch, Michigan.

City	Channel No.	
	Present	Proposed
Mount Pleasant, Mich.	47–	*14, 47–
West Branch, Mich.	21	27+

3. In support of his request, petitioner states that Central Michigan College is a state-owned and operated educational institution with a student body in excess of 5,000 students; that under State law it is charged with the responsibility of providing continuing education for all who seek it within a specifically designated area which encompasses 38 counties in the lower Michigan peninsula extending North to the Straits of Mackinac, East to Lake Huron, West to Lake Michigan, and South approximately 70 miles from Mount Pleasant; that pursuant to State law it is authorized to employ the medium of television for the purpose of instructing its on-campus student body, to develop adult education programs, to experiment with educational television in these areas, and to participate in the areas of elementary and secondary school instruction; that it now has available the financial resources necessary for the construction and operation of an educational television station should its petition be granted and a channel made available for this purpose; that the assignment of UHF Channel 14 to Mount Pleasant, Michigan, for noncommercial educational use would serve the public interest in that it would provide a valuable facility for assisting in the education of students and of the populace of the northern part of the lower Michigan peninsula.

4. Petitioner further states that with respect to its request to assign Channel 27 to West Branch, Michigan, in lieu of

Channel 21 currently assigned there, that such a substitution is necessary in order to satisfy the Commission's mileage separation requirements; that there are no applications pending for the use of Channel 21 at West Branch; and that the assignment of Channel 14 and Channel 27 as proposed will meet all the technical requirements specified in the Commission's rules.

5. The Commission is of the view that rule making should be instituted in order that interested parties may submit their views and relevant data.

6. Authority for the adoption of the proposed amendment is contained in sections 4(i), 301, 303 (c), (d), (f), and (r) and 307(b) of the Communications Act of 1934, as amended.

7. Any interested party who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before March 13, 1959, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comment is established.

8. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments shall be furnished the Commission.

Adopted: February 11, 1959.

Released: February 13, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-1456; Filed, Feb. 17, 1959; 8:49 a.m.]

[47 CFR Part 16]

[Docket No. 12738]

LAND TRANSPORTATION RADIO SERVICES

Limitation of Frequencies in Certain Range; Extension of Time for Filing Comments

In the matter of amendment to § 16.252 of Part 16, Land Transportation Radio Services, to limit use of the frequencies in the 30-50 Mc range to the single-frequency method of operation.

The Commission having under consideration the request of the American Trucking Association, Inc., for extension, until May 4, 1959, of the time in which to file comments on the Notice of Proposed Rule Making in the above-entitled matter (FCC 59-48) released on January 23, 1959; and

It appearing that the purpose of this request for extension from the original date of March 2, 1959 is to conduct a survey of all the motor carriers affected by the Commission's proposal for the purpose of obtaining the data requested in the notice; and

It further appearing that public interest would be served by granting the request for extension of time;

It is ordered, Pursuant to section 0.291(b)(4) of the Commission's Statement of Delegation of Authority, this 12th day of February 1959, that the time for filing comments in Docket No. 12738 is extended to May 4, 1959 and the time for filing of reply comments thereon to May 15, 1959.

Released: February 13, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-1457; Filed, Feb. 17, 1959; 8:49 a.m.]

[47 CFR Part 31]

[Docket No. 12760; FCC 59-106]

UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A AND B TELEPHONE COMPANIES

Notice of Proposed Rule Making

In the matter of amendment of Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies) of the Commission's rules and regulations, to delete telephone plant account 207, Right of way.

1. The American Telephone and Telegraph Company (AT&T), on behalf of itself and the Bell System companies, by letter dated August 22, 1958, has requested the Commission to amend Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies) of the Commission's rules and regulations so as to delete acount 207, *Right of way.*

2. Section 31.207 *Right of way,* of the Commission's rules presently provides for the inclusion therein of the original cost of land, leaseholds, easements, and similar rights in land having a term of more than one year, acquired for the location of pole line, cable, wire, and conduit plant, and also the cost of permits to erect poles and to place conduit when the expected period of occupancy under such permits exceeds the estimated life of the initial plant installed. The related portion of other costs in acquiring such land, rights and permits is also included in account 207. Rights in land used for bulidings or for storage purposes are includible in account 211, "Land". The cost of permits to erect poles and to place conduit when the expected period of occupancy under such permits does not exceed the estimated life of the initial plant installed, also the cost of other permits not includible in account 207, such as those to place cable and wire on buildings and fences, are and have been required to be included in the account appropriate for the cost of the property constructed.

3. Under the AT&T proposal the cost of all land held in fee and devoted to telephone service would be included in account 211 and all other costs of rights and permits now included in account 207 would be included in the appropriate accounts for the physical plant for which the rights and permits were acquired. AT&T argues that the proposed accounting would produce administratively more useful results because each outside plant account would include the costs of all rights and permits, other than land in fee, acquired for that class of plant. AT&T asserts that the present accounting is based upon the view that the life of most of the rights classifiable as right of way is longer than that of the physical units placed upon such right of way and consequently has a life of its own which is generally the life of the route involved. The objective of the present accounting is thus to retire appropriate amounts from account 207 whenever portions of a route are abandoned. This is generally deemed to have taken place whenever physical plant on the right of way is removed without replacement. AT&T states that while this approach has a good deal of theoretical justification, in practice it has pronounced weaknesses, since (1) the life of a considerable portion of the permits represented by the dollars in account 207 eventually turns out to be no longer than that of the related physical plant; and (2) the present approach causes complications in making appropriate retirements from the right of way account. The Company argues that to identify and report removals separately from other removals of similar plant which do not call for right of way retirements is burdensome and frequently difficult and that no real sacrifice in accuracy would result from the proposed accounting.

4. In conclusion, the Company suggests that the costs of all items of right of way other than land in fee be treated as part of the cost of the physical plant to which they relate, just as initial survey and engineering cost and the cost of the initial holes for the poles are treated today. This, it is suggested, is consistent with the view that each generation of physical items within a given plant class should bear the actual costs incurred for such generation of items. It is alleged that the reporting, record keeping and accounting work involved would be simplified and become less costly if account 207 were eliminated as it would obviate the necessity of maintaining separate continuing property records, developing and maintaining separate retirement unit costs, and making separate retirement entries for right of way.

5. The Commission is informed that the investment of the Bell System included in account 207 amounts to about $78,000,000. If account 207 were deleted as requested about two thirds of this amount would be transferred to pole lines account and about one third to buried cable account. The transfer to land account would be about $100,000 and even lesser amounts would be transferred to submarine cable and underground conduit accounts. Under the proposal, there would initially be an increase in Bell System's annual depreciation expense estimated at approximately $1,600,000. This is because the right of

way costs transferred to the outside plant accounts would thereafter be retired as parts of the unit costs of the poles, cables, or other outside plant items and would therefore assume the shorter lives of such items. Correspondingly, of course, the faster depreciation and earlier retirement of right of way would decrease net book investment below what it would be under a continuation of present accounting.

6. AT&T submitted a detailed list of the amendments to Part 31 which it believes would be necessary to effect its objectives. Such proposed amendments with minor changes in the language thereof are set forth below. It is proposed to make any amendments adopted as a result of this proceeding effective retroactively to January 1, 1959 at the option of carriers, otherwise to be effective for all carriers as of January 1, 1960.

7. No amendments are proposed herein for Part 33 (Uniform System of Accounts for Class C Telephone Companies), Part 34 (Uniform System of Accounts for Radiotelegraph Carriers), or Part 35 (Uniform System of Accounts for Wiretelegraph and Ocean-cable Carriers). Part 33 contains a separate plant account for right of way but there has been no indication of difficulties encountered by the small carriers similar to those indicated by AT&T. Telegraph companies have very little right of way except for the domestic telegraph carrier and it has not suggested any change in the present accounting which is to carry right of way in a separate account under the title of leaseholds. Any person, however, who believes that Part 33, Part 34 or Part 35 should be amended as to right of way accounting in a manner similar to that proposed for Part 31 or in any other manner may so indicate in his comments.

8. This Notice of Proposed Rule Making is issued under authority of sections 4(i) and 220 of the Communications Act of 1934, as amended.

9. Any interested party who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form proposed herein, may file with the Commission on or before March 16, 1959, a statement or brief setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments or briefs in reply to the original comments or briefs may be filed within 20 days of the last day for filing said original comments or briefs. No additional comments may be filed unless (1) specifically requested by the Commission, or (2) good cause for filing such additional comments is established. The Commission will consider all such comments that are presented before taking action in the matter and, if any comments are submitted which appear to warrant the holding of oral argument, notice of the time and place of such oral argument will be given.

10. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and fourteen copies of all statements or briefs filed shall be furnished to the Commission.

Adopted: February 11, 1959.

Released: February 13, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

1. In §§ 31.01–3 (j) and (x), 31.02–82, and 31.2–20(a) delete the reference to "right of way."

2. In paragraph (a) of § 31.2–22 delete the phrase "privileges and permits" and substitute therefor "privileges and permits and rights of way."

3. Change paragraph (b) (7) of § 31.2–22 to read as follows:

(7) "Cost of privileges and permits and rights of way" includes payments for and expenses incurred in securing privileges, permits, rights, or rights of way in connection with construction work, such as for use of private property, streets, or highways. The cost of such items shall be included in the cost of the work for which they are secured, except for costs includible in account 202, "Franchises," and account 211, "Land".

4. Delete in its entirety § 31.207 *Right-of-way.*

5. Change paragraph (a) of § 31.211 to read as follows:

(a) This account shall include the original cost of all land in fee and of leaseholds, easements, and similar rights in land having a term of more than 1 year used for purposes other than the location of outside plant (see accounts 241 through 244) or externally mounted central office equipment (see account 221). It shall also include special assessments upon lands for the construction of public improvements. (Note also § 31.2–25(d).)

6. Add a Note F to § 31.211 as follows:

NOTE F: The original cost of leaseholds, easements, rights of way, and similar rights in land having a term of more than one year and not includible in account 211 shall be included in the amounts for the outside plant or externally mounted central office equipment in connection with which the rights were acquired.

7. Add a new item in the item list following § 31.221 to read "Permits and privileges and rights of way for installation of externally mounted central office equipment. (Note also § 31.2–22(b)(7) and Note F to account 211.)"

8. In the item lists following §§ 31.241, 31.242:3 and 31.242:4 change the item relating to permits and privileges for construction to read "Permits and privileges and rights of way for construction. (Note also § 31.2–22(b)(7) and Note F to account 211.)"

9. In the item lists following §§ 31.242:1, 31.242:2 and 31.243 change the item relating to permits and privileges for construction to read "Permits and privileges for construction. (Note also § 31.2–22(b)(7).)

10. Change the second and third sentences of § 31.244 to read as follows: "It shall include the cost of opening trench and repaving in the construction of such plant and the cost of permits and privileges and rights of way for construction. (Note also § 31.2–22(b)(7) and Note F to account 211.)"

11. In the item lists following §§ 31.602:1, 31.602:4, 31.602:5 and 31.602:7 delete the item reading "Right of way adjustments, cost of, when no additional rights are acquired."

12. In paragraph (a) of § 31.671 add the following sentence: "It shall also include annual or more frequent payments for the use of land, either as right of way or for other operating purposes."

13. Change the first sentence of paragraph 2(b) of Appendix B to read as follows: "With respect to land classifiable in account 211, 'Land,' the property-record unit to be set forth in the continuing property record shall be a parcel of land."

[F.R. Doc. 59–1458; Filed, Feb. 17, 1959; 8:49 a.m.]

NOTICES

ATOMIC ENERGY COMMISSION

[Docket No. 50–22]

WESTINGHOUSE ELECTRIC CORP.

Notice of Hearing on Application for License

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Part 2, 10 CFR, "Rules of Practice," notice is hereby given that a hearing will be held to consider the issuance of a facility license for a testing facility to the above-named applicant under sections 104c and 185 of the Atomic Energy Act of 1954, as amended. The hearing will commence at 10:30 a.m. on Wednesday March 25, 1959 and will be held in the Auditorium of the AEC Headquarters, Germantown, Maryland. The application is available for public inspection at the AEC's Public Document Room, 1717 H Street NW., Washington, D.C.

The issues to be considered at the hearing will be the following:

1. Whether the utilization facility authorized for construction by Construction Permit No. CPRR–8 dated July 3, 1957, henceforth designated Construction Permit No. CPTR–1 dated July 3, 1957 and issued to Westinghouse Electric Corporation, has been constructed in compliance with the terms and condi-

tions of the construction permit and will operate in conformity with the application as amended, the construction permit, the Act and rules and regulations of the Commission;

2. Whether there is reasonable assurance that the facility can be operated without endangering the health and safety of the public;

3. Whether the Westinghouse Electric Corporation is technically and financially qualified to operate the facility, to assume financial responsibility for payment of Commission charges for special nuclear material, to undertake and carry out the proposed use of such material for a reasonable period of time, and to engage in the proposed activities in accordance with the Commission's regulations;

4. Whether the Westinghouse Electric Corporation has furnished to the Commission proof of financial protection in accordance with 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements."

5. Whether the issuance of a license to operate the facility will be inimical to the common defense and security or to the health and safety of the public.

Petitions for leave to intervene must be received in the Office of the Secretary, Atomic Energy Commission, Germantown, Maryland, or in the AEC Public Document Room, 1717 H Street NW., Washington, D.C., not later than March 20, 1959, or in the event of a postponement of the hearing date specified above at such time as the Presiding Officer may provide upon application of the petitioner.

Answers to this notice shall be filed by Westinghouse Electric Corporation pursuant to § 2.736 of the rules of practice on or before March 16, 1959. In the absence of good cause shown to the contrary, the AEC staff proposes to recommend at the hearing that the AEC issue a facility license to the applicant substantially in the form annexed as Annex "A".

Papers required to be filed with the AEC in this proceeding shall be filed by mailing to the Secretary, Atomic Energy Commission, Washington 25, D.C., or may be filed in person at the Office of the Secretary, Atomic Energy Commission, Germantown, Maryland, or at the AEC Public Document Room, 1717 H Street NW., Washington, D.C. Pending further order of the Presiding Officer, parties shall file twenty copies of each such paper with the AEC and where service of papers is required on other parties shall serve five copies of each.

Pursuant to section 182b of the Atomic Energy Act of 1954, as amended, notice is hereby given that the report of the Advisory Committee on Reactor Safeguards in this matter is available for public inspection at the Commission's Public Document Room. A hazards analysis by the AEC staff on this matter is also available in the Public Document Room.

The Commission designated Samuel W. Jensch, Esq., as the Presiding Officer to conduct the hearing and to render a decision pursuant to § 2.751(a) of the Commission's rules of practice.

Dated at Germantown, Md., this 16th day of February 1959.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of Licensing and Regulation.

ANNEX "A"

PROPOSED LICENSE

1. This license applies to the heterogeneous, light water cooled and moderated 20,000 kilowatt (thermal) testing reactor (hereinafter referred to as "the facility") which is owned by Westinghouse Electric Corporation and located near Waltz Mill in Westmoreland County, Pennsylvania, and described in Westinghouse Electric Corporation's application attested February 29, 1956, and amendments to the application attested August 3 and 20, 1956, September 17, 1956, February 4, 1957, April 29, 1957, August 7, 1957, September 5, 1957, August 7, 1958, September 29, 1958, October 30, 1958, December 16, 1958, January 27, 1959 and February 5, 1959 (herein collectively referred to as "the application") and for which Construction Permit No. CPRR-8 (henceforth designated CPTR-1) was issued by the Commission on July 3, 1957.

2. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Westinghouse Electric Corporation:

a. Pursuant to section 104(c) of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act") and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", to possess and operate the facility as a utilization facility in accordance with the procedures described in the application;

b. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material", to receive, possess and use 156 kilograms of contained uranium 235 as fuel for operation of the facility; and

c. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30, "Licensing of Byproduct Material", to possess, but not to separate, such byproduct material as may be produced by operation of the facility.

3. This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50 and § 70.32 of Part 70; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to any additional conditions specified or incorporated below:

a. *Operating restrictions.* (1) Westinghouse Electric Corporation (hereinafter referred to as "Westinghouse") shall not operate the facility at a power level in excess of 20,000 kilowatts (thermal).

(2) Westinghouse shall not operate the facility with a combined fuel and experiment loading resulting in an excess reactivity of more than 10 percent above cold clean critical.

(3) Westinghouse shall not operate the facility unless the over-all void and over-all temperature coefficients are negative and of such values that the facility can inherently withstand, without melting of fuel element cladding, a step increase in reactivity of at least 1 percent.

(4) Westinghouse may make changes in—

(a) The physical, nuclear, thermal, or hydraulic performance characteristics of the reactor core;

(b) The performance characteristics of the reactor control and safety systems;

(c) The number and type of experimental facilities;

(d) The physical, thermal, or hydraulic performance characteristics of the high pressure experimental thimbles or loops;

(e) The reactivity limitations on experiments; or

(f) The integrity of the containment vessel

specified in the application only in accordance with the following procedures:

After review and approval of the proposed change by the Westinghouse Testing Reactor Safeguards Committee, Westinghouse shall provide the Commission with a report describing the proposed change including a hazards evaluation of the proposed change. If, within 15 days after receiving such report, the Commission does not issue any notice to Westinghouse to the contrary, Westinghouse may make such change without further approval. If, within 15 days after receipt by the Commission of such report, the Commission notifies Westinghouse that the hazards involved may be greater than or materially different from those analyzed in the Final Safety Report, or that the proposed change involves a material alteration of the facility, the change shall not be made until after such change has been authorized in writing by the Commission. If a license amendment is necessary to authorize the proposed change, the report submitted by Westinghouse shall be deemed to constitute an application for a license amendment.

(5) Except with respect to the categories described in paragraph 3.a.(4) above, Westinghouse may make changes in the facility design, performance characteristics, and operating procedures specified in the application only in accordance with the following procedures:

(a) The Westinghouse Testing Reactor Safeguards Committee shall evaluate the hazards involved in the proposed change and the effect of such change on each of the postulated accidents analyzed in Final Safety Report, WCAP-369, Revised, dated August 7, 1958, as amended on September 29, October 30, 1958, and January 27, 1959 (herein collectively referred to as "The Final Safety Report").

(b) (i) If the Westinghouse Testing Reactor Safeguards Committee determines that the proposed change involves hazards not greater than and not different from those analyzed in The Final Safety Report, and does not involve a material alteration of the facility, no further approval shall be required.

(ii) If the Westinghouse Testing Reactor Safeguards Committee determines that the hazards involved are or may be greater than or different from those analyzed in The Final Safety Report or if the Committee determines that the proposed change involves a material alteration of the facility, the procedures set forth in paragraph 3.a.(4) shall apply.

For purposes of paragraphs 3.a. (4) and (5) a proposed change shall be deemed to involve "hazards not greater than, and not different from, those analyzed in The Final Safety Report" if (1) the probability of the types of accidents analyzed in The Final Safety Report would not be increased, and (2) the possible consequences of the types of accidents analyzed in The Final Safety Report would not be increased, and (3) such change would not create a credible probability of an accident of a type different from those analyzed in The Final Safety Report. A proposed change shall be deemed to involve hazards which may be "greater than, or different from, those anaylzed in The Final Safety Report" if. (1) the probability of the types of accidents analyzed in The Final Safety Report might be increased, or (2) the consequences of the types of accidents analyzed in The Final Safety Report might be increased, or (3) such change might create a credible probability of an accident of a type different from those analyzed in The Final Safety Report.

(6) No experiment or test shall be conducted in the facility until the proposed

experiment or test has been reviewed and approved by the Westinghouse Testing Reactor Safeguards Committee.

(7) In any case where the procedures described in the application are not consistent with the operating restrictions specified in this paragraph 3., the restrictions contained herein shall govern.

b. *Records.* In addition to those otherwise required under this license and applicable regulations, Westinghouse shall keep the following records:

(1) Reactor operating records, including power levels.

(2) Records showing radioactivity released or discharged into the air or water beyond the effective control of Westinghouse as measured at the point of such release or discharge.

(3) Records of emergency shutdowns, including reasons therefor.

(4) Records containing a description of each change authorized pursuant to paragraph 3.a.(5)(b)(i) by the Westinghouse Testing Reactor Safeguards Committee and a summary statement of the bases for the conclusions reached by the Committee.

(5) Records containing a description of each test or experiment conducted in the facility.

c. *Reports.* (1) Westinghouse shall make an immediate report in writing to the Commission of any indication or occurrence of a possible unsafe condition relating to the operation of the facility.

(2) Westinghouse shall submit to the Commission a report of the results of operation of the facility pertinent to safety during (a) the low power tests (power levels up to 200 kilowatts) and the subsequent "check out" period, (b) the full power testing without high pressure experiments and (c) the full power tests with high pressure experiments. These reports should also identify any change made in the facility design, performance characteristics and operating procedures. Each such report shall be submitted to the Commission immediately following the conclusion of each stage except that the report of full power testing with high pressure experiments shall be submitted after three months of such operations.

(3) An annual report of operating experience and changes in facility design, performance characteristics, and operating procedure shall be submitted to the Commission, the first such report to be submitted within thirteen months following issuance of this license.

4. Pursuant to § 50.60 of the regulations in Title 10, Chapter I, CFR, Part 50, the Commission has allocated to Westinghouse for use in the operation of the facility 156 kilograms of uranium 235 contained in uranium enriched to approximately 93 percent in the isotope uranium 235. Estimated schedules of special nuclear material transfers to Westinghouse and returns to the Commission are contained in Appendix "A" which is set forth below. Shipments by the Commission to Westinghouse in accordance with column (2) in Appendix "A" will be conditioned upon Westinghouse's return to the Commission of material substantially in accordance with column (3) of Appendix "A".

5. This license is effective as of the date of issuance and shall expire at midnight July 3, 1967.

Date of issuance:

For the Atomic Energy Commission.

APPENDIX "A"

Estimated Schedule of Transfers of Special Nuclear Material from the Commission to Westinghouse and to the Commission from Westinghouse

(1) Date of transfer (fiscal year)	(2) Transfers from AEC to Westinghouse Electric Corp., kgs. U-235	(3) Returns by Westinghouse Electric Corp. to AEC, kgs. U-235		(4) Net yearly distribution, kgs. U-235	(5) Cumulative distribution, kgs. U-235
		Recoverable scrap	Spent fuel		
1958	20.912			20.912	20.912
1959	43.118	2.840		40.278	61.190
1960	45.370	5.000	12.450	27.020	88.210
1961	45.370	4.500	29.700	11.170	99.380
1962	45.370	4.500	29.700	11.170	110.550
1963	45.370	4.500	29.700	11.170	121.720
1964	45.370	4.500	29.700	11.170	132.890
1965	45.370	4.500	29.700	11.170	144.060
1966	45.370	4.500	29.700	11.170	155.230
1967	22.000	3.700	29.700	(11.400)	143.830
			[1] 48.940	(48.940)	[2] 94.890
	403.620	39.440	269.290	94.890	

[1] Inventory to be returned.
[2] Fabrication and burnup losses.

[F.R. Doc. 59-1489; Filed, Feb. 17, 1959; 8:50 a.m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3]

ALUMINUM MILL PRODUCTS FROM WEST GERMANY

Determination of No Sales at Less Than Fair Value

FEBRUARY 7, 1959.

A complaint was received that aluminum mill products from West Germany, such as sheets, rods, coils, circles, and plates, were being sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921.

I hereby determine that aluminum mill products from West Germany, such as sheets, rods, coils, circles, and plates, are not being, nor are likely to be, sold in the United States at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. Fair value in this case was determined by comparing purchase price with the home consumption price in West Germany. It was found that purchase price was not less than home market price after making adjustments authorized by law, as follows:

Products sold to the United States are made to meet United States standards. Identical merchandise is not sold in West Germany. The products sold for home consumption must satisfy German Industrial Norms, referred to as DIN standards. The DIN standards require higher quality ingots and are manufactured under stricter tolerances for impurities.

It was initially necessary, therefore, to adjust the price of DIN products to put them on the same basis as products made to meet United States standards. The price of DIN products was then further adjusted by the deduction of inland freight, taxes, discounts, and allowance for quantity and for differences in circumstances of sale.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 59-1448; Filed, Feb. 17, 1959; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification No. 174]

NEVADA

Small Tract Classification

1. Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (19 F.R. 2473), I hereby classify the following described public lands, totaling 680 acres, in Ormsby County Nevada, as suitable for lease and sale for residence purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a), as amended:

MOUNT DIABLO MERIDIAN

T. 15 N., R. 20 E.,
Sec. 28, E½W½, W½E½,
Sec. 33, E½W½, W½E½, SW¼NW¼.

Containing 680 acres, of which 375 acres are covered by 126 applications from persons entitled to preference under 43 CFR 257.5(a).

2. Classification of the above-described lands by this order segregates them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid with a preference right to veterans of World War II and of the Korean conflict and other qualified persons entitled to preference under the Act of September 27, 1944 (58 Stat. 497, 43 U.S.C. 279–284), as amended.

4. All valid applications filed prior to January 22, 1959, will be granted, as

soon as possible, the preference right provided for by 43 CFR 257.5(a).

E. J. PALMER,
State Supervisor.

FEBRUARY 9, 1959.

[F.R. Doc. 59-1428; Filed, Feb. 17, 1959; 8:45 a.m.]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Department of the Army has filed an application, Serial Number F-022851 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws, but excepting the Mineral Leasing Laws. The applicant desires the land for a military training area.

Congressional approval of this application is required under Public Law 85-337.

For a period of sixty days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 1050, Fairbanks, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

Richardson Highway—Black Rapids Area

Commencing at the Northeast corner of the lands withdrawn by Public Land Order No. 1503; thence East 1.167 miles; thence South 2.067 miles; thence West 2.063 miles; thence North 1.317 miles; thence East 0.896 miles; thence North 0.750 miles to the point of beginning. Containing 2399.03 acres, more or less.

RICHARD L. QUINTUS,
Operations Supervisor, Fairbanks.

[F.R. Doc. 59-1462; Filed, Feb. 17, 1959; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

LIVESTOCK SANITARY BOARD OF THE STATE OF ARIZONA

Authorization for Inspection of Cattle, Horses and Mules

The Livestock Sanitary Board of the State of Arizona, pursuant to the provisions of section 317 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 217a), has filed a written application with the Secretary of Agriculture for authority to act as an official livestock inspection agency with respect to cattle, horses and mules originating in or shipped from the State of Arizona. It is found that the applicant is an agency of the State of Arizona, that branding and marking of livestock as a means of establishing ownership prevails by custom or statute in said State, that no other application of a similar nature has been filed with the Department of Agriculture, and that it is necessary to authorize the Livestock Sanitary Board of the State of Arizona to charge and collect a reasonable and non-discriminatory fee at posted stockyards which are subject to the provisions of the act for the inspection of brands, marks, and other identifying characteristics of cattle, horses and mules originating in or shipped from the State of Arizona for the purpose of determining the ownership of such livestock.

Therefore, after consideration of such application and all data, views and arguments submitted as a result of the notice of proposed rule making in connection therewith published in the FEDERAL REGISTER on November 7, 1958 (23 F.R. 8702), and pursuant to the provisions of section 317 of the Packers and Stockyards Act, 1921, as amended, the following authorization is granted to become effective 30 days after publication in the FEDERAL REGISTER:

Authorization. The Livestock Sanitary Board of the State of Arizona is hereby authorized, with respect to cattle, horses and mules originating in or shipped from the State of Arizona, to charge and collect, at those stockyards posted under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), at which the said Livestock Sanitary Board of the State of Arizona may register as a market agency to perform such inspection, reasonable and non-discriminatory fees for the inspection of brands, marks and other identifying characteristics of cattle, horses and mules for the purpose of determining the ownership of such livestock. Such charges as are authorized to be made under this authority shall be collected by the market agency or person receiving and disbursing the funds received from the sale of the livestock with respect to the inspection of which such charge is made, and shall be paid by it to the said Livestock Sanitary Board of the State of Arizona. Such inspection charges and collection of fees shall be subject to the provisions of the Packers and Stockyards Act, 1921, as amended, and the regulations issued thereunder. (7 U.S.C. 217a)

Done at Washington, D.C., this 13th day of February 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator, Agricultural Marketing Service.

[F.R. Doc. 59-1463; Filed, Feb. 17, 1959; 8:50 a.m.]

[P. & S. Docket Nos. 553, 554, 555]

NEW JERSEY COOP COMPANY, INC., ET AL.

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 (et seq.), an order was issued on June 11, 1958 (17 A.D. 531) authorizing the respondents to assess a charge of 97 cents per coop for the rental of coops to the live poultry industry to and including June 16, 1960, unless modified or extended by further order before that date.

On January 27, 1959, a petition was filed on behalf of the respondents requesting that the current rate order be modified to permit them to increase the rental charge for coops from 97 cents to $1.02 per coop and requesting that the proposed rate increase remain in effect "until such time as it is deemed necessary to change same."

The effect of such increase in the rate for coop rental, if authorized, would be to increase the revenue of the respondents. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., within 15 days after the publication of this notice.

Done at Washington, D. C., this 13th day of February 1959.

[SEAL] JOHN C. PIERCE, Jr.,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 59-1464; Filed, Feb. 17, 1959; 8:50 a.m.]

Commodity Stabilization Service

PEANUTS

Notice of Dates Normal Peanut Planting Season Begins and of Closing Dates Established by Agricultural Stabilization and Conservation State Committees for Peanut-Producing States

Sections 729.1023(c), 729.1024(a) and 729.1024(b) of the Allotment and Marketing Quota Regulations for Peanuts of the 1959 and Subsequent Crops (23 F.R. 8515) provide that the Agricultural Stabilization and Conservation State Committees shall determine dates the normal peanut planting season begins and within prescribed limits, establish closing dates for voluntary releasing acreage which will not be used on the farm for which allotted, and for filing applications for increase in allotment from any acreage released by other farmers in the county. Section 3 of the Administrative Procedure Act (5 U.S.C. 1002(a)) requires that such dates be published in the FEDERAL REGISTER. Accordingly, there are set forth below the dates established by ASC State committees of the peanut-producing States applicable to the 1959 crop of peanuts.

I. DATE NORMAL PEANUT PLANTING SEASON BEGINS

State	Counties	Date
Alabama	All counties	Mar. 25
Arizona	do	Mar. 20
Arkansas	do	May 15
California	Imperial and Riverside	Mar. 15
	San Joaquin Valley Counties.	May 15
Florida	All counties	Feb. 15
Georgia	do	Mar. 19
Louisiana	do	June 1
Mississippi	do	Apr. 20
Missouri	do	Apr. 15
New Mexico	do	May 1
North Carolina	do	Do.
Oklahoma	do	May 10
South Carolina	do	May 15
Tennessee	do	May 1
Texas	*Zone 1.* Bastrop, Brazos, Burleson, Comal, Edwards, Grimes, Hardin, Harris, Hays, Kendall, Kerr, Lee, Liberty, Orange, Travis, Val Verde, Waller and all counties south.	Mar. 2
	Zone 2. Archer, Borden, Dawson, Fisher, Gains, Jones, Scurry, Shackleford, Stephens, Wichita, Young and all counties east and south not including counties in Zone 1.	Apr. 3
	Zone 3. Baylor, Garza, Haskell, Kent, Lynn, Stonewall, Terry, Throckmorton, Wilbarger, Yoakum, and all counties north and west.	Apr. 17
Virginia	All counties	May 1

II. CLOSING DATES FOR RELEASING ACREAGE WHICH WILL NOT BE USED ON TEE FARM FOR WHICH ALLOTTED

State	Counties	Date
Alabama	All counties	Mar. 20
Arizona	do	Mar. 1
Arkansas	do	May 15
California	Imperial and Riverside	Mar. 16
	San Joaquin Valley counties.	May 15
Florida	All counties	Mar. 15
Georgia	do	Apr. 3
Louisiana	do	May 29
Mississippi	do	May 15
Missouri	do	Do.
New Mexico	do	May 8
North Carolina	do	Apr. 30
Oklahoma	do	May 29
South Carolina	do	May 1
Tennessee	do	July 1
Texas	*Zone 1.* Eastrop, Brazos, Burlesons, Comal, Edwards, Grimes, Hardin, Harris, Hays, Kendall, Kerr, Lee, Liberty, Orange, Travis, Val Verde, Waller and all counties south.	Mar. 6
	Zone 2. Archer, Borden, Dawson, Fisher, Gains, Jones, Scurry, Shackleford, Stephens, Wichita, Young and all counties east and south not including counties in Zone 1.	Apr. 10
	Zone 3. Baylor, Garza, Haskell, Kent, Lynn, Stonewall, Terry, Throckmorton, Wilbarger, Yoakum and all counties north and West.	Apr. 24
Virginia	All counties	Apr. 15

III. CLOSING DATES FOR FILING APPLICATIONS FOR INCREASE IN ALLOTMENT FROM RELEASED ACREAGE

State	Counties	Date
Alabama	All counties	Mar. 20
Arizona	do	Mar. 15
Arkansas	do	June 1
California	Imperial and Riverside	Mar. 31
	San Joaquin Valley counties.	May. 29
Florida	All counties	Mar. 31
Georgia	do	Apr. 3
Louisiana	do	June 12
Mississippi	do	May 15
Missouri	do	Do.
New Mexico	do	Do.
North Carolina	All Counties	Apr. 30
Oklahoma	do	June 15
South Carolina	do	May 31
Tennessee	do	July 15
Texas	*Zone 1.* Bastrop, Brazos, Burleson, Comal, Edwards, Grimes, Hardin, Harris, Hays, Kendall, Kerr, Lee, Liberty, Orange, Travis, Val Verde, Waller and all counties south.	Mar. 2
	Zone 2. Archer, Borden, Dawson, Fisher, Gains, Jones, Scurry, Shackleford, Stephens, Wichita, Young and all counties east and south not including counties in Zone 1.	Apr. 3
	Zone 3. Baylor, Garza, Haskell, Kent, Lynn, Stonewall, Terry, Throckmorton, Wilbarger, Yoakum and all counties north and west.	Apr. 17
Virginia	All counties	Apr. 15

(Sec. 375, 52 Stat. 66, as amended; 7 U.S.C. 1375. Interpret or apply secs. 301, 361–368, 372–374, 376, 388, 52 Stat. 38, as amended, 66, as amended, 88, secs. 358, 359, 55 Stat. 88, as amended, 90, as amended, secs. 106, 112, 377, 70 Stat. 191, 195, 206, as amended; 7 U.S.C. 1301, 1358, 1359, 1361–1368, 1372–1374, 1376, 1377, 1388, 1824, 1836)

Issued at Washington, D.C., this 13th day of February 1959.

[SEAL] WALTER C. BERGER,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59–1466; Filed, Feb. 17, 1959; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

WALLACE H. ADAMSON

Statement of Changes in Financial Interests

In accordance with the requirements of Section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the last six months:

A. Deletions: No change.
B. Additions: No change.

This statement is made as of January 30, 1959.

WALLACE H. ADAMSON.

JANUARY 30, 1959.

[F.R. Doc. 59–1425; Filed, Feb. 17, 1959; 8:45 a.m.]

MICHAEL SUISMAN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as last reported in the FEDERAL REGISTER:

A. Deletions: No change.
B. Additions: No change.

This statement is made as of February 1, 1959.

MICHAEL SUISMAN.

FEBRUARY 4, 1959.

[F.R. Doc. 59–1426; Filed, Feb. 17, 1959; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 10209]

SASKATCHEWAN AIR AMBULANCE SERVICE

Notice of Hearing

In the matter of the application of Saskatchewan Air Ambulance Service for renewal of foreign air carrier permit so as to perform operations of a casual, occasional or infrequent nature, in common carriage, into the United States.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that a hearing on the above-entitled application is assigned to be held on February 19, 1959, at 10:00 a.m., e.s.t., in Room 725, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., February 12, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59–1503; Filed, Feb. 17, 1959; 9:10 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–685]

BON AMI CO.

Order Summarily Suspending Trading

FEBRUARY 11, 1959.

The Class A and Class B common stocks of The Bon Ami Company, being listed and registered on the New York Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchanges and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 240.15c2–2 (17 CFR 240.15c2–2) thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the

purchase or sale of such security, otherwise than on a national securities exchange.

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said common stocks on the New York Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, February 11, 1959 to February 20, 1959, inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-1430; Filed, Feb. 17, 1959; 8:46 a.m.]

[File No. 1-2645]

F. L. JACOBS CO.

Order Summarily Suspending Trading

FEBRUARY 11, 1959.

The common stock, $1.00 par value, of F. L. Jacobs Co. is registered on the New York Stock Exchange and admitted to unlisted trading privileges on the Detroit Stock Exchange, national securities exchanges, and

The Commission on February 11, 1959 issued its order and notice of hearing under section 19(a)(2) of the Securities Exchange Act of 1934 to determine at a hearing beginning March 16, 1959 whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw, the registration of the capital stock of F. L. Jacobs Co. on the New York Stock Exchange for failure to comply with section 13 of the Act and the rules and regulations thereunder; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on the New York Stock Exchange and Detroit Stock Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the further opinion that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, trading in the stock of F. L. Jacobs Co. will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 240.15c2-2 (17 CFR 240.15c2-2) thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange.

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the New York Stock Exchange and Detroit Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, February 11, 1959 to February 20, 1959, inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-1431; Filed, Feb 17, 1959; 8:46 a.m.]

[File No. 1-2645]

F. L. JACOBS CO.

Order and Notice of Hearing

FEBRUARY 11, 1959.

I. F. L. Jacobs (hereinafter called "registrant"), a corporation organized under the laws of the State of Michigan, registered its common stock, $1.00 par value, on the New York Stock Exchange on November 25, 1945 pursuant to an application filed under sections 12 (b) and (c) of the Securities Exchange Act of 1934 and the certification of said Exchange filed under section 12(d) of the said Act and the rules and regulations of the Commission promulgated thereunder. Pursuant to Clause 2 of section 12(f) of the said Act, registrant's common stock is admitted to unlisted trading privileges on the Detroit Stock Exchange.

II. 1. On December 5, 1958 the New York Stock Exchange suspended trading in the common stock, $1.00 par value, of the registrant.

2. Registrant failed to file its annual report on Form 10-K for the fiscal year ended July 31, 1958 when it was required to be filed on January 26, 1959 notwithstanding the time for filing was extended at the request of the registrant sixty days from November 26, 1958, the date the annual report was originally required to be filed pursuant to section 13 of the Securities Exchange Act of 1934 and the rules and regulations promulgated thereunder.

III. The Commission has reason to believe that registrant has effected transactions not yet reported or improperly reported, involving the acquisition or disposition of assets, including the hypothecation and sale of the securities of its subsidiaries, or effected transactions with officers and directors or with affiliated persons of such officers and directors which transactions were events required to be reported on current report on Form 8-K or disclosed in response to items in an annual report on Form 10-K pursuant to section 13 of the Securities Exchange Act of 1934 and the rules and regulations thereunder.

IV. The Commission has reason to believe that Alexander L. Guterma, president of the registrant, and other members of the management have failed to furnish adequate information to enable the preparation and filing of an annual report on Form 10-K for the fiscal year ended July 31, 1958, as required by section 13 of the Securities Exchange Act of 1934 and the rules and regulations thereunder.

It is ordered, That a public hearing, pursuant to section 19(a)(2) of the Act be held at 10:00 a.m., e.s.t., March 16, 1959 in Room 193 at the offices of the Commission, 425 Second Street NW., Washington, D.C., to determine whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw the registration of the capital stock of registrant on the New York Stock Exchange and the unlisted trading privileges on the Detroit Stock Exchange for failure to comply with section 13 of the Act and the rules and regulations thereunder as set forth in paragraphs II through V above.

It is further ordered, That Robert N. Hislop is hereby designated and assigned as Hearing Officer in this proceeding and is authorized to exercise the powers and perform the duties specified in the rules of practice of the Commission and any other duties which he may be authorized to perform in accordance with law.

Notice of such hearing is hereby given to registrant and to any other person or persons whose participation in such proceeding may be necessary or appropriate in the public interest or for the protection of investors. Any such further persons desiring to be heard in such proceeding should file with the Hearing Officer or with the Secretary of the Commission on or before March 12, 1959, his application therefor, as provided by the rules of practice of the Commission, setting forth therein any of the above matters or issues of fact or law upon which he desires to be heard and any additional issues he deems raised by the aforesaid order.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-1432; Filed, Feb. 17, 1959; 8:46 a.m.]

[File No. 70-3659]

SOUTHWESTERN ELECTRIC POWER CO. AND CENTRAL AND SOUTH WEST CORP.

Notice of Amended Declaration Proposing Extension of Period for Issue and Sale of Notes

FEBRUARY 10, 1959.

Notice is hereby given that Southwestern Electric Power Company ("Southwestern"), formerly Southwestern Gas and Electric Company, a subsidiary of Central and South West Corporation, a registered holding company, has filed Amendment No. 2 to its declaration heretofore filed herein, designating sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") as applicable to the proposed transactions, which are summarized as follows:

By order entered herein on January 29, 1958 (Holding Company Act Release No. 13666) the Commission authorized Southwestern to issue and sell to a group of 14 banks not exceeding $12,000,000 principal amount of its promissory notes, such notes to be dated when issued and to become due not later than March 14, 1959, with interest at the prime rate in effect in the City of Chicago at the date

of each borrowing, subject to prepayment without premium or penalty. The proceeds were to be used in financing Southwestern's 1958 construction expenditures.

Amendment No. 2, filed January 28, 1959, states that at March 14, 1959, there will be an unused balance of $2,200,000 of the original $12,000,000 commitment by the lending banks. Pursuant to an amendment of the bank loan agreement, Southwestern proposes (1) to renew for four months (or to July 14, 1959) all notes heretofore issued by it to the banks and (2) to issue further notes for additional borrowings up to the original authorization of $12,000,000, all such notes to mature July 14, 1959.

Southwestern states that the proposed transactions will permit the most economical use of funds in connection with its construction program and will permit maximum flexibility in connection with its permanent financing. The company proposes to pay all such notes out of the net proceeds from the issue and sale, prior to July 14, 1959, of its First Mortgage Bonds in a principal amount not less than $12,000,000.

Southwestern further states that no other regulatory commission has jurisdiction in the matter, that no fees or commission will be paid, and that its total expenses in connection herewith will approximate $200.

Notice is further given that any interested person may, not later than March 5, 1959 at 5:30 p.m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said amended declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Securities and Exchange Commission, Washington 25, D.C. At any time after said date the amended declaration, as now filed or as further amended, may be permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may exempt such transactions as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate under the circumstances.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-1433; Filed, Feb. 17, 1959; 8:46 a.m.]

[File No. 24D-1917]

URAN MINING CORP.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

FEBRUARY 12, 1959.

I. Uran Mining Corporation (issuer), a New York corporation, 443 Powers Building, Rochester 14, New York, filed with the Commission on September 6, 1955, a notification and offering circular and subsequently filed amendments thereto relating to a proposed public offering of 58,400 shares of its 10¢ par value Class A voting common stock and 233,600 shares of its 10¢ par Class B nonvoting common stock to be offered in units consisting of one share of Class A stock and four shares of Class B stock at $5 per unit for an aggregate $292,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder; and

II. The Commission has reasonable cause to believe that a device, scheme or artifice to defraud has been employed in connection with the sale of the issuer's securities and the offering has been made in such manner as to operate as a fraud or deceit upon the purchaser, particularly, with respect to statements that (a) a mineralized tree root had been discovered on the issuer's mining claims which held a uranium content of 0.12 percent; (b) it had been established beyond a doubt that ore above commercial grade had been uncovered in several different locations on the issuer's claims; (c) there were at least 4,000,000 tons of uranium ore in a bed just below the surface of a ridge on the issuer's properties; (d) the estimate of 4,000,000 tons of uranium had been corroborated by core drillings; (e) the issuer had 740 acres of land, showing uranium oxide from 0.10 percent to 1.72 percent; (f) a representative of a large named mining company had visited the issuer's properties and was interested in the properties; and (g) 100 tons of commercial grade ore had been stockpiled and were ready for shipment.

III. *It is ordered,* Pursuant to Rule 223(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given, that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that within 20 days after receipt of such request, the Commission will, or at any time upon its own motion, may set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this Order of Suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-1434; Filed, Feb. 17, 1959; 8:46 a.m.]

[File No. 24S-1524]

OREGON URANIUM CORP.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

FEBRUARY 12, 1959.

I. Oregon Uranium Corporation (issuer), an Oregon corporation, 3809 NE. 73rd Street, Portland, Oregon, filed with the Commission on February 11, 1957 a notification on Form 1-A and an offering circular, and filed various amendments thereto, relating to an offering of 45,000 shares of its $1.00 par value common stock, at $1.00 per share, for an aggregate offering of $45,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder; and

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that:

1. The issuer has failed to file a revised offering circular as required by Rule 256(e) of Regulation A;

2. The issuer has failed to file reports of sales on Form 2-A as required by Rule 260 of Regulation A; and

B. The offering circular contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, concerning, among other things:

1. The failure to disclose current information with respect to exploratory and development work performed by the issuer on its properties, and the results thereof; and

2. The failure to disclose current financial information; and

C. The offering is being made or would be made in violation of section 17 of the Act.

D. The issuer has failed to cooperate with the Commission as required by Rule 261(a)(7).

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given to Oregon Uranium Corporation and to any person having any interest in the matter that this order has been entered, that the Commission upon receipt of a written request within thirty days after the entry of this order will, within twenty days after receipt of such request, set the matter down for a hearing at a place to be designated by the Commission for the purpose of determining whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption without prejudice, however, to the consideration and presentation of additional matters at the hearing, that if no hearing is requested and none is ordered by the Commission,

the suspension order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] ORVAL L. DuBOIS, *Secretary.*

[F.R. Doc. 59-1435; Filed, Feb. 17, 1959; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12349, etc.; FCC 59M-207]

WJPB-TV, INC., ET AL.

Order Scheduling Prehearing Conference

In re application of WJPB-TV, INC., Weston, West Virginia, Docket No. 12349, File No. BPCT-2318; West Virginia Radio Corporation, Weston, West Virginia, Docket No. 12350, File No. BPCT-2343; Telecasting, Inc., Weston, West Virginia, Docket No. 12351, File No. BPCT-2345; for construction permits for new television broadcast stations (Channel 5).

On the Hearing Examiner's own motion: *It is ordered,* This 12th day of February 1959, that the prehearing conference in the above-entitled proceeding, which was heretofore continued without date, will be held in the offices of the Commission, Washington, D.C., commencing at 10:00 o'clock a.m., February 27, 1959.

Released: February 12, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-1459; Filed, Feb. 17, 1959; 8:49 a.m.]

[Docket No. 12750; FCC 59M-202]

MAY BROADCASTING CO.

Notice of Conference

In re application of May Broadcasting Company, Shenandoah, Iowa, Docket No. 12750, File No. BR-531; for renewal of license of Standard Broadcast Station KMA.

Notice is hereby given that a prehearing conference will be held in the above-entitled proceeding at 10:00 a.m. on Friday, February 20, 1959, in Washington, D.C.

Dated: February 12, 1959.

Released: February 12, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-1460; Filed, Feb. 17, 1959; 8:49 a.m.]

[Docket No. 12755; FCC 59M-203]

QUAD CITIES BROADCASTING CO.

Order Scheduling Prehearing Conference

In re application of Gilbert E. Metzger, Louis O. Mitzlaff, John R. Ax and Dennis J. Keller, d/b as Quad Cities Broadcasting Company, Brazil, Indiana, Docket No. 12755, File No. BP-11831; for construction permit.

On the Examiner's own motion: *It is ordered,* This 12th day of February 1959, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a prehearing conference pursuant to the provisions of § 1.111 of the Commission's rules, at 10:00 a.m., on Friday, February 27, 1959, in the offices of the Commission, Washington, D.C.

Released: February 12, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-1461; Filed, Feb. 17, 1959; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 256]

MOTOR CARRIER APPLICATIONS

FEBRUARY 13, 1959.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carrier of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto.

All hearings will be called at 9:30 o'clock a.m., United States standard time, unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 38383 (Sub No. 9), filed January 26, 1959. Applicant: THE GLENN CARTAGE COMPANY, a corporation, 1115 South State Street, Girard, Ohio. Applicant's attorney, Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Conduits, conduit connections,* fiber, bituminized, from Ironton, Ohio to points in Maryland, Michigan, New Jersey, New York, Pennsylvania, Indiana, and West Virginia, and *empty containers or other such incidental facilities* used in transporting the above specified commodities on return. Applicant is authorized to conduct operations in Kentucky, Michigan, New York, Ohio, Pennsylvania, and West Virginia.

HEARING: April 30, 1959, at the New Post Office Building, Columbus, Ohio, before Commissioner Charles A. Webb.

No. MC 115577 (Sub No. 1), (REPUBLICATION) filed December 8, 1958, published at page 834, issue of the FEDERAL REGISTER, February 4, 1959. Applicant: SCHWERMAN TRUCKING CO. OF ILL., INC., 620 South 29th Street, Milwaukee 46, Wis. Applicant's representative: Adolph E. Solie, 715 First National Bank Building, Madison 3, Wis. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* in bags, and, in bulk, in tank vehicles, from the site of the Marquette Cement Manufacturing Co., plant, Oglesby, Ill., and the site of the Alpha Portland Cement Co. plant, La Salle, Ill., to points in Indiana located west of La Grange, Noble, Whitley, Huntington, Grant, Madison, Hancock, Shelby, Johnson, Monroe, and Greene Counties; points in Iowa located east of Mitchell, Floyd, Butler, Grundy, Story, Polk, Warren, Lucas, and Wayne Counties; and points in Wisconsin located south of Pepin, Eau Claire, Clark, Marathon, Shawano, Brown, and Kewaunee Counties. Applicant is authorized to conduct operations in Illinois and Wisconsin.

NOTE: Previous publication inadvertently omitted the transportation of cement, "in bags".

HEARING: Remains as assigned March 20, 1959, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Alfred B. Hurley.

No. MC 118434, filed December 9, 1958. Applicant: BALLENTINE PRODUCE, INC., New Highway 64-71, Alma, Ark. Applicant's attorneys: A. Alvis Layne, Jr., Pennsylvania Building, Washington 4, D.C., and John H. Joyce, 26 North College, Fayetteville, Ark. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Canned goods* and *preserves,* from Alma and Van Buren, Ark., to points in Alabama, California, Colorado, Florida, Georgia, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, Ohio, Oklahoma, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin, and *canned goods* and *supplies and materials* used in the manufacture of canned goods and preserves, from San Jose and Thornton, Calif., Denver, Colo., Atlanta, Ga., Hoopeston, Maywood, Belleville, Kansas and Peoria, Ill., Elgin, Iowa, New Orleans, La., Howell, Mich., St. Louis, Mo., Athens, Dallas, Ft. Worth, Houston, Pasadena, Freeport, Mineola, Grand Saline, McAllen, and San Antonio, Tex., to Alma and Van Buren, Ark.

NOTE: Applicant states the authority sought shall be performed under continuing contract with Alma Canning Company, Alma, Ark., H & B Canning Company, Van Buren, Ark., and Bryant Preserving Company, Alma, Ark.

HEARING: March 12, 1959, at the New Hotel, Pickwick, Kansas City, Mo., before Examiner Alton R. Smith.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

No. MC 66562 (Sub No. 1475), filed January 26, 1959. Applicant: RAIL-

WAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: Robert C. Boozer, 1220 The Citizens and Southern National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities, including Class A and B explosives*, moving in express service, (1) between Lumberton, N.C., and Elizabethtown, N.C., from Lumberton over U.S. Highway 301 to St. Paul, thence over North Carolina Highway 20 to the junction of North Carolina Highway 87, thence over North Carolina Highway 87 to Elizabethtown, thence from Elizabethtown over North Carolina Highway 242 to the junction of North Carolina Highway 211, thence over North Carolina Highway 211 to Lumberton, serving the intermediate point of St. Paul, N.C.; (2) between Elizabethtown, N.C. and Lumberton, N.C., over North Carolina Highway 41 upon completion of construction, in lieu of highways 242 and 211, serving no intermediate points as an alternate route for operating convenience only. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states that the service to be performed by applicant shall be limited to service which is auxiliary to or supplemental of air or Railway Express Service. Shipments transported by applicant shall be limited to those moving on a through bill of lading or express receipt covering, in addition to a motor carrier movement by applicant, an immediately prior or immediately subsequent movement by air or rail.

No. MC 75463 (Sub No. 18), filed January 26, 1959. Applicant: REED LINES, INC., 209 Canal Street, Defiance, Ohio. Applicant's attorney: Walter E. Schaeffer, 44 East Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Mineral (rock, slag or glass) wool* and *mineral (rock, slag or glass) rock products*, from Lagro and Wabash, Ind., to points in Ohio on and east of U.S. Highway 21, and *damaged, rejected, defective or returned shipments* of mineral wool or mineral wool products, as well as *empty containers or other such incidental facilities* used in connection with the above-specified commodities on return movements. Applicant is authorized to conduct operations in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and the District of Columbia.

NOTE: A proceeding has been instituted under section 212(c) in No. MC 75463 (Sub No. 17) to determine whether applicant's status is that of a common or contract carrier.

No. MC 85255 (Sub No. 5), filed February 12, 1959. Applicant: PUGET SOUND TRUCK LINES, INC., Pier 62, Seattle, Wash. Applicant's attorney: Charles J. Keever, Hoge Building, Seattle 4, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, and *sawdust*, from points in Oregon, to Camas, Wash. Applicant is authorized to conduct operations in Washington and Oregon.

No. MC 100662 (Sub No. 9), filed February 4, 1959. Applicant: KENNETH K. ZECHMAN AND HARRY E. ZECHMAN, a partnership doing business as BLUE DIAMOND COMPANY, 4401 East Fairmount Avenue, Baltimore, Md. Applicant's representative: Bernard N. Gingerich, Quarryville, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insecticides, herbicides, fungicides, sprayers, applicators or distributors or parts thereof*, for applying fertilizers, insecticides, herbicides and fungicides, and *advertising paraphernalia or displays*, used in promoting the sale of these commodities, from Baltimore, Md., to Wilmington, Del., points in the District of Columbia, and points in Pennsylvania and Virginia within 200 miles of Baltimore; and from Baltimore, Md., to points in that part of New York on and west of New York Highway 14. *Rejected and damaged shipments* of the above-specified commodities, on return. Applicant is authorized to conduct operations in Maryland, Delaware, the District of Columbia, Pennsylvania, Virginia, New York, New Jersey, Ohio, West Virginia.

NOTE: Applicant states that the proposed authority is to be limited to transportation of the above-specified commodities when shipped with fertilizers and fertilizer materials transported under its present authority. Applicant is also authorized to conduct operations as a common carrier in Certificate MC 113106 Sub 1; and seeks appropriate authority to engage in dual operations.

No. MC 109451 (Sub No. 94), filed February 2, 1959. Applicant: ECOFF TRUCKING, INC., Fortville, Ind. Applicant's attorney: Robert C. Smith, 512 Illinois Building, Indianapolis 4, Ind. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ethyl ether*, in bulk, in tank vehicles, from Ficklin, Ill., to West Chester, Pa. Applicant is authorized to conduct operations in Alabama, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin.

NOTE: A proceeding has been instituted under section 212(c) to determine whether applicant's status is that of a common or contract carrier in No. MC 109451 (Sub No. 82).

No. MC 114194 (Sub No. 18), filed February 5, 1959. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup* and *blends*, in bulk, in tank vehicles, from Granite City, Ill., to points in Oklahoma, Colorado, Florida, and Virginia, West Virginia, North Carolina, South Carolina, Florida, and that part of Wisconsin north of Wisconsin Highway 60, and that part of Texas west of U.S. Highway 81, except no service is to be performed to Oklahoma City and Tulsa, Okla., and Eau Claire, Wis. *Coloring syrup* and *caramel coloring* and *blends*, in bulk, in tank vehicles, from Granite City, Ill., to points in Missouri, Illinois, Indiana, Ohio, Pennsylvania, Michigan, Wisconsin, Minnesota, Kentucky, Tennessee, Arkansas, Louisiana, Mississippi, Georgia, Oklahoma, Colorado, Kansas, Nebraska, Iowa, Texas, North Dakota, South Dakota, Oklahoma, Florida, South Carolina, North Carolina, Virginia, West Virginia, the District of Columbia, and New York, except no service is to be performed to Boston, Mass., New York, N.Y., Newark and Camden, N.J., Philadelphia, Pa., and Cleveland, Columbus, and Cincinnati, Ohio. *Empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application on return. Applicant is authorized to conduct operations in Illinois, Indiana, Iowa, Missouri, Ohio, and Tennessee.

No. MC 118618, filed February 6, 1959. Applicant: GEORGE J. BRZEZINSKI, doing business as SHUR-WAY MOVING & CARTAGE, Box 241–A Guerin Road, Libertyville, Ill. Applicant's attorney: Burl F. Nader, 428 North Milwaukee Avenue, Libertyville, Ill. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bulk cartons of paper back book matches*, from Libertyville, Ill., to points in Illinois, Indiana, Iowa, Michigan, and Wisconsin, and *empty containers or other such incidental facilities* (not specified) used in transporting the above commodities on return.

MOTOR CARRIERS OF PASSENGERS

No. MC 1501 (Sub No. 159), filed February 6, 1959. Applicant: THE GREYHOUND CORPORATION, 5600 Jarvis Avenue, Chicago 48, Ill. Applicant's attorney: Earl A. Bagby, 371 Market Street, San Francisco 5, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over *regular routes*, transporting: *Passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, between Sacramento, Calif., and Marysville Junction Calif.: from Sacramento over California Highway 24 to junction U.S. Highway 99E (Marysville Junction), and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular routes, specifically, alternate route between Sacramento, Calif., and Ostrom, Calif. in Certificate No. MC 1511 Sub No. 102 (thereafter assigned No. MC 1501 Sub No. 138).

NOTE: Applicant seeks a change in that segment of alternate route which lies between Rio Oso and Ostrom, Calif., to read over California Highway 24 between Rio Oso and Marysville Junction, to be reflected on a revised certificate Sheet No. 13. Applicant states that California Highway 24 has recently been extended north from Rio Oso over a newly reconstructed highway on a direct route to junction with U.S. Highway 99E immediately southeast of Marysville city limits, referred to herein as Marysville Junction.

No. MC 57662 (Sub No. 6), filed February 4, 1959. Applicant: BANGOR AND

AROOSTOOK RAILROAD COMPANY, a corporation, 84 Harlow, Bangor, Maine. Applicant's attorney: William M. Houston, Assistant General Counsel, Law Department, Bangor and Aroostook Railroad Company (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Express, newspapers* and *mail*, in the same vehicle with passengers, between the points in Maine over the regular routes served by applicant in Certificates No. MC 57662 and No. MC 57662 (Sub No. 4). Applicant is authorized to conduct operations in Maine.

No. MC 94818 (Sub No. 6), filed February 2, 1959. Applicant: J. POLK BROOKS, doing business as BROOKS BUS LINE, 220 South Fifth Street, Paducah, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Express*, in the same vehicle with passengers and their baggage, and mail, to and from points on U.S. Highway 45 between Paducah, Ky., and Norris City, Ill., and those on Illinois Highway 1 between Norris City and Mt. Carmel, Ill., including Norris City and Mt. Carmel, in connection with applicant's authorized regular route operations in Certificate MC 94818: RESTRICTION: Service at these points shall be limited to passengers baggage, and mail moving over said carrier's route between such points, on the one hand, and, on the other, points on U.S. Highway 12 between Jackson and Detroit, Mich., including Jackson and Detroit.

NOTE: Applicant is authorized to transport passengers and their baggage and mail in the same vehicle with passengers, to and from the above-specified points and including the above restriction, in its Certificate MC 94818 Sub No. 2. It states that it inadvertently failed to include express in that application, and that the sole purpose for filing the instant application is to add express to the service already authorized.

PETITION

No. MC 2900 (Sub-No. 94), GREAT SOUTHERN TRUCKING COMPANY EXTENSION — HAZLEHURST, GA. (Jacksonville, Fla.) Petition to waive Rule 1.241(d)(2) and for oral hearing. The following covers an Order of the Commission entered in the subject proceeding by the Commission, Commissioner Murphy, dated February 4, 1959, and concerns: (1) Petition of Overnite Transportation Company, dated December 22, 1958, for waiver of Rule 1.241(d)(2) of the Commission's rules of practice, and for oral hearing; and (2) Motion of applicant, dated January 12, 1959, to dismiss the petition. The Order provides that said motion be, and it is hereby, overruled, for the reason that such action is not warranted, and further, that said proceeding be, and it is hereby assigned for hearing at a time and place to be hereafter fixed, and still further, that said petition be, and it is hereby denied in all other respects.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carrier of property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act and certain other procedural matters with respect thereto. (49 CFR Part 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–7089 (correction), published in the February 4, 1959, issue of the FEDERAL REGISTER on page 839. The name of the vendee corporation ROCKET TRANSPORT, INC., P.O. Box 3347, Knoxville, Tenn., was erroneously shown as ROCKET TRANSPORT CO.

No. MC–F–7097. Authority sought for purchase by OLD DOMINION FREIGHT LINE, 903 Catherine Street, Richmond, Va., of a portion of the operating rights of N B & C MOTOR LINES, INCORPORATED, 937 Water Street, Norfolk, Va., and for acquisition by L. F. CONGDON, E. E. CONGDON and J. R. CONGDON, all of Richmond, Va., of control of such rights through the purchase. Applicants' attorney: Francis W. McInerny, 504 Commonwealth Building, Washington 6, D.C. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Greenville, N.C., and Richmond, Va., serving the intermediate points of Enfield, N.C., and Petersburg, Va.; between Petersburg, Va., and Hopewell, Va. Vendee is authorized to operate as a *common carrier* in the State of Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–7098. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS, INC. (WASHINGTON CORPORATION), 431 Burgess Drive, Menlo Park, Calif., of a portion of the operating rights of N B & C MOTOR LINES, INCORPORATED, 937 East Water Street, Norfolk, Va. Applicants' attorneys: John R. Turney and William O. Turney, 2001 Massachusetts Avenue NW., Washington 6, D.C., and Eugene T. Liipfert, 431 Burgess Drive, Menlo Park, Calif. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Norfolk, Va., and Richmond, Va., serving the off-route points of Fort Eustis, Morrison, Roxbury, Rescue, Battery Park, Camp Lee, and Yorktown, Va., between Norfolk, Va., and Newport News, Va., and between Norfolk, Va., and Old Point Comfort, Va., serving all intermediate points; between Richmond, Va., and Richmond Deepwater Terminals, Va.; *general commodities*, with exceptions as specified above, over irregular routes, between points in Norfolk, Va., and between points in Suffolk, Va. Vendee is authorized to operate as a *common carrier* in Utah, Idaho, Oregon, Nevada, Washington, California, Minnesota, Montana, North Dakota, Wisconsin, Illinois, Wyoming, Iowa, Arizona, Kentucky, Pennsylvania, West Virginia, New Mexico, and Colorado. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–7099. Authority sought for control and merger by EXPRESSWAYS, INC., 1023 South Wayne Street, Angola, Ind., of the operating rights and property of HI-WAY FREIGHT SYSTEM, INC., 3241 South Shields Avenue, Chicago, Ill., and for acquisition by MAURICE J. BARRON and LOUIS PIERONI, 3475 South Cicero Avenue, Chicago, Ill., of control of such rights and property through the transaction. Applicants' attorneys: Axelrod, Goodman & Steiner, 39 South La Salle Street, Chicago 3, Ill. Operating rights sought to be controlled and merged: *General commodities*, with certain exceptions including household goods and commodities in bulk as a *common carrier* over regular routes, between Chicago, Ill., and Detroit, Mich., serving all intermediate and certain off-route points, between Lansing, Mich., and Battle Creek, Mich., serving the intermediate point of Charlotte, Mich., between Grand Rapids, Mich., and Kalamazoo, Mich., serving the intermediate point of Plainwell, Mich., and between Grand Rapids, Mich., and Detroit, Mich., serving all intermediate points; over several alternate routes for operating convenience only. EXPRESSWAYS, INC., is authorized to operate as a *common carrier* in Indiana, Illinois, and Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–7100. Authority sought for purchase by TRANSAMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit 9, Mich., of the claimed operating rights (covered by an application seeking Interim operating authority under Section 7(c) of the Transportation Act of 1958) of EDWARD C. MORE, Shiloh, N.J., and for acquisition by R. B. GOTFREDSON and C. B. GOTFREDSON, both of Detroit, Mich., of control of such rights through the purchase. Applicants' attorney: Howell Ellis, 520 Illinois Building, Indianapolis 4, Ind. Claimed operating rights sought to be transferred: *Frozen fruits, frozen berries and frozen vegetables*, as a *common carrier* over regular and irregular routes, between Seabrook, N.J., and Youngstown, Ohio, and between Seabrook, N.J., and Chicago, Ill., serving certain intermediate and off-route points. Vendee is authorized to operate as a *common carrier* of general commodities in Michigan, Illinois, Indiana, Ohio, Pennsylvania, Missouri, Kentucky, Wisconsin, New Jersey, New York, West Virginia, Connecticut, Nebraska, Iowa, Minnesota, Rhode Island, and Kansas. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–7101. Authority sought for purchase by TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit 9, Mich., of the claimed operating rights (covered by an application seeking Interim operating authority under section 7(c) of the Transportation Act of 1958), of JOHN E. JACKSON, RD No. 6, Vineland Pike, Bridgeton, N.J., and for acquisition by R. B. GOTFREDSON and C. B. GOTFREDSON, both of Detroit, Mich., of con-

trol of such rights through the purchase. Applicants' attorney: Howell Ellis, 520 Illinois Building, Indianapolis 4, Ind. Claimed operating rights sought to be transferred: *Frozen fruits, frozen berries and frozen vegetables,* as a *common carrier* over regular routes, between Seabrook, N.J., and Washington, D.C., between Seabrook, N.J., and Buffalo, N.Y., serving certain intermediate and off-route points, between Seabrook, N.J., and Syracuse, N.Y., serving certain intermediate points, between Seabrook, N.J., and Boston, Mass., serving certain intermediate and off-route points, and between Glassboro, N.J., and Jersey City, N.J. Vendee is authorized to operate as a *common carrier* of general commodities in Michigan, Illinois, Indiana, Ohio, Pennsylvania, Missouri, Kentucky, Wisconsin, New Jersey, New York, West Virginia, Connecticut, Nebraska, Iowa, Minnesota, Rhode Island, and Kansas. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–7102. Authority sought for control by G. & P. TRANSPORTATION CO., INC., 419 Railroad Avenue, SE., Aberdeen, S. Dak., of ROADWAY CARGO, INC., 701 North 22d Street, Fargo, N. Dak., and for acquisition by A. R. CRAWFORD, 419 Railroad Avenue, SE., Aberdeen, S. Dak., DOUGLAS W. BANTZ, 505 Capitol Building, Aberdeen, S. Dak., and FRANK J. PARSCH, 439 Pillsbury Street, St. Paul 14, Minn., of control of ROADWAY CARGO, INC., through the acquisition by G. & P. TRANSPORTATION CO., INC. Applicants' attorney: Douglas W. Bantz, 505 Capitol Building, Aberdeen, S. Dak. Operating rights sought to be controlled: *General commodities,* with certain exceptions including household goods and commodities in bulk as a *common carrier* over regular routes, between Wahpeton, N. Dak., and Mooreton, N. Dak., serving no intermediate points, between St. Paul, Minn., and Wahpeton, N. Dak., serving the intermediate point of Minneapolis, Minn., between Gwinner, N. Dak., and Lisbon, N. Dak., serving all intermediate points between Oakes, N. Dak., and Forman, N. Dak., between Fairmont, N. Dak., and Forman, N. Dak., serving all intermediate and certain off-route points, between Wahpeton, N. Dak., and Breckenridge, Minn., between Abercrombie, N. Dak., and McCauleyville, Minn., and between Kent, Minn., and McCauleyville, Minn., serving no intermediate points, *general commodities* with certain exceptions including commodities in bulk and excluding household goods, between Fargo, N. Dak., and Wyndmere, N. Dak., serving certain intermediate and off-route points, between Barney, N. Dak., and Great Bend, N. Dak., serving the intermediate point of Mantador, N. Dak., and between Fargo, N. Dak., and Wahpeton, N. Dak., serving all intermediate points; *general commodities* with certain exceptions including household goods and excluding commodities in bulk, between South St. Paul, Minn., and Genesee, N. Dak., serving certain intermediate and off-route points; *general commodities,* except loose bulk commodities, uncrated household goods or furniture, uncrated livestock, currency, bullion, articles of unusual value, commodities exceeding ordinary equipment and loading facilities, and those injurious or contaminating to other lading, between Fargo, N. Dak., and Wahpeton, N. Dak., serving all intermediate points; *farm machinery, lubricating oil and grease, groceries, hardware, and finished lumber products,* from South St. Paul, Minn., to Crete, N. Dak., serving all intermediate points in North Dakota and certain intermediate and off-route points in the Minneapolis-St. Paul, Minn., Commercial Zone; *junk, farm machinery, and empty barrels,* from Crete, N. Dak., to South St. Paul, Minn., serving all intermediate points in North Dakota, and certain intermediate and off-route points in the Minneapolis-St. Paul, Minn., Commercial Zone; *household goods* as defined by the Commission, and *emigrant movables,* over irregular routes between points in Marshall and Roberts Counties, S. Dak., and points in Sargent and Richland Counties, N. Dak., on the one hand, and, on the other, points in Minnesota; *household goods and livestock,* between Wahpeton, N. Dak., and points within 50 miles of Wahpeton on the one hand, and, on the other, Minneapolis, St. Paul, and South St. Paul, Minn.; *general commodities,* with certain exceptions including household goods and commodities in bulk, between points in Minnesota within 35 miles of Breckenridge, Minn., including Breckenridge, between points in the above-specified Minnesota territory on the one hand, and, on the other, points in Richland, Sargent and Ransom Counties, N. Dak., between points in Richland, Sargent and Ransom Counties, N. Dak., and between Fargo, N. Dak., and Moorehead, Minn.; *livestock* and *lubricating oil,* between points in Marshall and Roberts Counties, S. Dak., and points in Sargent and Richland Counties, N. Dak., on the one hand, and, on the other, South St. Paul and Newport, Minn.; *agricultural commodities,* between Galchutt, N. Dak., and points in North Dakota within 25 miles of Galchutt, on the one hand, and, on the other, Moorehead, Minn. G. & P. TRANSPORTATION CO., INC., is authorized to operate as a *common carrier* in South Dakota, North Dakota, Minnesota, Illinois, Iowa and Nebraska. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–7103. Authority sought for purchase by ALKIRE TRUCK LINES, INC., 1600 Genesee Street, Kansas City, Mo., of the operating rights and certain property of HARLEY WHITE and HARRY WHITE, doing business as WHITE BROTHERS TRANSFER COMPANY, Cumberland, Iowa, and for acquisition by TENNYS ALKIRE, also of Kansas City, Mo., of control of such rights and property through the purchase. Applicants' attorney: Lowell L. Knipmeyer, 900 Waltower Building, Kansas City, Mo. Operating rights sought to be transferred: *General commodities,* with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, from Chicago, Ill., to Omaha, Nebr., serving no intermediate points; *farm machinery* and *agricultural implements,* from Canton, Ill., to Griswold, Iowa, serving the intermediate and off-route points within 20 miles of Griswold, for delivery only; *household goods,* as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, over irregular routes, between points within 20 miles of Griswold, Iowa, including Griswold, on the one hand, and, on the other, Omaha, Nebr.; *household goods* as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, and *emigrant movables,* between Cumberland, Iowa, and points within 15 miles of Cumberland, on the one hand, and, on the other, points in Nebraska; *household goods,* as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, in truckload lots only, between Atlantic, Iowa, and points in Iowa within 60 miles of Atlantic, on the one hand, and, on the other, points in Minnesota, Illinois, Missouri, and Nebraska; *general commodities* with certain exceptions including household goods and commodities in bulk, between Atlantic, Iowa, and points within 30 miles thereof, on the one hand, and, on the other, Omaha, Nebr.; *twine,* from Chicago and Rock Island, Ill., to certain specified Iowa points, from Chicago, Ill., to points within 20 miles of Griswold, Iowa, including Griswold; *building material* and *feed,* from Omaha, Nebr., and Chicago, Ill., to Cumberland, Iowa, and points within 15 miles of Cumberland; *feed,* from Chicago, Ill., to Griswold, Iowa, and points within 20 miles of Griswold, and from Burlington, Wis., to Chicago Heights, Ill., and points within five miles of Chicago Heights, and Kansas City, Mo., to Cumberland, Iowa, and points within 50 miles of Cumberland; *petroleum products* in containers, from Omaha, Nebr., to Cumberland and Massena, Iowa; *packing-house products,* from Omaha, Nebr., to Chicago, Ill., and Whiting, Ind.; *groceries* and *agricultural implements,* from Omaha, Nebr., to Cumberland, Iowa; *agricultural implements* and *parts,* from Moline, Ill., to Omaha, Nebr., from Chicago, Moline, Rock Falls, and Rock Island, Ill., to Griswold, Iowa, and points within 20 miles of Griswold, and from Waterloo, Iowa, to Omaha, Nebr.; *agricultural implements and parts, and feed,* from Omaha, Nebr., to Griswold, Iowa, and points within 20 miles of Griswold; *horses,* from Omaha, Nebr., and Des Moines and Cumberland, Iowa, and points within 15 miles of Cumberland, to Elkhart, Terre Haute, Rochester, and Muncie, Ind., and from Des Moines, Iowa, to Chicago, Ill.; *butter,* in truckload lots only, from Casey, Iowa, to Chicago, Ill.; *eggs, hides,* and *empty beer containers,* in truckload lots only, from Omaha, Nebr., to Chicago, Ill.; *farm implements, beer, soap,* and *twine,* in truckload lots only, from Chicago, Ill., to Omaha, Nebr., Atlantic, Iowa, and points in Iowa within 60 miles of Atlantic; *flour,* in truckload lots only, from Crete, Nebr., to Atlantic, Iowa; *petroleum products,* in truckload lots only, from Omaha, Nebr., to St. Paul and Minneapolis, Minn.; *beer,* in truckload lots only, from St. Paul and Minneapolis, Minn., to Atlantic, Iowa, and Omaha, Nebr.; *fresh vegetables,*

from Glenwood, Iowa, and points in Iowa within ten miles of Glenwood, to Plattsmouth, Nebr.; *sand,* from Plattsmouth, Nebr., and points in Nebraska within 15 miles of Plattsmouth, to Glenwood, Iowa, and points in Iowa within 30 miles of Glenwood; *building materials,* from Marseilles, Ill., and points in the Chicago, Ill., Commercial Zone, as defined in 1 M.C.C. 673, to Cumberland, Iowa, and points in Iowa within 75 miles of Cumberland, except Des Moines, Denison, Carroll, Jefferson, Oakland, and Council Bluffs, Iowa; *animal and poultry feed,* and *insecticides,* from Atlantic, Iowa, and points within five miles thereof, to points in that part of Illinois on and north of U.S. Highway 36, except Chicago, Rock Island, Moline, and Fulton, those in Wisconsin on and south of U.S. Highway 18, and on and west of Wisconsin Highway 69, those in Minnesota on and south of U.S. Highway 14, and points in Missouri; *popcorn,* from Red Oak, Iowa, and points in Iowa within 50 miles of Red Oak to Chicago, Ill.; *empty bags* used in the transportation of popcorn, and *cardboard boxes,* knocked down, from Chicago, Ill., to Red Oak, Iowa; *livestock,* in truckload lots only, from Atlantic, Iowa, and points within 35 miles of Atlantic, to Chicago, Ill., and Omaha, Nebr.; *livestock,* from Griswold, Iowa, and points within 20 miles of Griswold, to Chicago, Ill., between Cumberland, Iowa, and points within 30 miles of Cumberland, on the one hand, and, on the other, Chicago, Ill., between points in Adams, Audubon, Cass, Harrison, Mills, Montgomery, Pottawattamie, and Shelby Counties, Iowa, and those in that part of Adair and Guthrie Counties, Iowa, on and west of Iowa Highway 25, on the one hand, and, on the other, points in Illinois, Indiana, Kansas, Minnesota, Missouri, and Nebraska, but not including Chicago, Ill., between Omaha, Nebr., on the one hand, and, on the other, points in Iowa, and between Atlantic, Iowa, and points within 15 miles of Atlantic, on the one hand, and, on the other, Kansas City, and St. Joseph, Mo.; *road-building machinery and equipment,* and *parts therefor,* between points in that part of Iowa on and west of U.S. Highway 169, and on and south of U.S. Highway 18, on the one hand, and, on the other, points in Kansas, Nebraska, and Missouri; *grain* and *feed,* between Atlantic, Iowa, and points within 15 miles of Atlantic, on the one hand, and, on the other, Omaha, Nebr.; *agricultural commodities,* between Atlantic, Iowa, and points within 15 miles of Atlantic, on the one hand, and, on the other, Kansas City and St. Joseph, Mo.; *grain, hay, agricultural implements, feed, building materials, farm supplies and equipment, and household goods,* between Glenwood, Iowa, and points in Iowa within 30 miles of Glenwood, on the one hand, and, on the other, Omaha, Nebr.; *shingles,* from Wilmington, Ill., to Atlantic, Corning, Dunlap, Gravity, and Leon, Iowa; *floor tile,* from Kankakee, Ill., to Columbus, Grand Island, Hastings, Lincoln, and Omaha, Nebr.; *agricultural implements and tractors,* from Rock Island, Moline, East Moline, Chicago, Canton, and Rock Falls, Ill., to Atlantic, Audubon, Avoca, Council Bluffs, Corning, Cumberland, Elk Horn, Elliott, Oakland, Minden, Massena, Neola, Griswold, and Villisca, Iowa. Vendee is authorized to operate as a *common carrier* in Missouri, Kansas, Oklahoma, Iowa, Illinois, Nebraska, Indiana, Wisconsin, and Michigan. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIERS OF PASSENGERS

No. MC-F-7104. Authority sought for purchase by ORSON LEWIS, doing business as LEWIS BROS. STAGES, 360 South West Temple Street, Salt Lake City 1, Utah, of the operating rights of DEE ORTON, doing business as DELTA BUS LINE, Delta, Utah. Applicant's attorneys: Dan B. Shields and Irene Warr, 419 Judge Building, Salt Lake City, Utah. Operating rights sought to be transferred: *Passengers and their baggage, and newspapers, motion picture film,* and express in shipments not to exceed 100 pounds in weight, as a *common carrier* over regular routes, between Salt Lake City, Utah, and Ely, Nev., serving all intermediate points; the service authorized above is subject to the following restrictions: (all traffic originating at Salt Lake City and Santaquin, Utah, and intermediate points on the route between Salt Lake City and Santaquin, Utah, shall be destined to points on the route west and south of Santaquin, Utah, and all traffic originating at Ely, Nev., and intermediate points between Ely, Nev., and Santaquin, Utah, not including Santaquin, Utah, shall be destined to Salt Lake City and Santaquin, Utah, and intermediate points between Salt Lake City and Santaquin, Utah); and between junction U.S. Highway 6 and Nevada Highway 73, and Garrison, Utah, serving all intermediate points. Vendee is authorized to operate as a common carrier in Utah, Nevada, Arizona, New Mexico, Texas, Idaho, and Oregon. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-1441; Filed, Feb. 17, 1959; 8:47 a.m.]

[Notice 5]

APPLICATIONS FOR MOTOR CARRIER "GRANDFATHER" CERTIFICATE OR PERMIT

FEBRUARY 13, 1959.

The following applications and certain other procedural matters relating thereto are filed under the "grandfather" clause of section 7(c) of the Transportation Act of 1958. These matters are governed by Special Rule § 1.243 published in the FEDERAL REGISTER issue of January 8, 1959, page 205, which provide, among other things, that this publication constitutes the only notice to interested persons of filing that will be given; that appropriate protests to an application (consisting of an original and six copies each) must be filed with the Commission at Washington, D.C., within 30 days from the date of this publication in the FEDERAL REGISTER; that failure to so file seasonably will be construed as a waiver of opposition and participation in such proceeding, regardless of whether or not an oral hearing is held in the matter; and that a copy of the protest also shall be served upon applicant's representative (or applicant, if no practitioner representing him is named in the notice of filing).

No. MC 2165 (Sub No. 9), filed November 24, 1958. Applicant: LANGDON TRUCK LINES, INC., 91 Maple Avenue, Lyndonville, N.Y. Applicant's representative: Raymond A. Richards, P.O. Box 25, Webster, N.Y. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries,* and *frozen vegetables,* between points in New York on and west of U.S. Highway 11, on the one hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New Jersey, New York, and Pennsylvania.

No. MC 6607 (Sub No. 9), filed December 10, 1958. Applicant: J. J. MINNEHAN, INC., 54 Granite Street, Boston 10, Mass. Applicant's attorney: John J. Graham, 144 Bowdoin Street, Boston 8, Mass. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Hemp,* between points in Boston, Ayer, New Bedford, and Plymouth, Mass., and Windsor Locks, Conn., (2) *Wool waste* (carded, spun, woven, or knitted), between Fall River, and New Bedford, Mass., Biddeford, Lewiston, and Augusta, Maine, Manchester and Nashua, N.H., and Willimantic, Conn., and points in Massachusetts, Connecticut, Rhode Island, New Hampshire, and Maine.

No. MC 13123 (Sub No. 21), filed December 10, 1958, published page 827, February 4, 1959 issue of FEDERAL REGISTER. Applicant: WILSON FREIGHT FORWARDING CO., 3636 Follett Avenue, Cincinnati, Ohio. Applicant's attorney: Wilmer B. Hill, Transportation Building, Washington, D.C. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries,* and *frozen vegetables,* in straight and mixed loads with *certain exempt commodities,* between points in Delaware, Maryland, Minnesota, Tennessee, Virginia, and Washington, D.C., and points in its Commercial Zone, on the one hand, and, on the other, points in Ohio, Kentucky, Indiana, North Carolina, Pennsylvania, West Virginia, New York, Alabama, Louisiana, Massachusetts, New Jersey, Maryland, Connecticut, Tennessee, Georgia, and Washington, D.C. and points in its Commercial Zone.

NOTE: Authority is also sought to continue transporting exempt commodities in mixed or straight loads with the above. This republication corrects the previous notice which failed to include the transportation of mixed shipments.

No. MC 30092 (Sub No. 8), (REPUBLICATION), filed December 5, 1958, published in the FEDERAL REGISTER issue January 22, 1959, page 515. Applicant: HERRETT TRUCKING COMPANY, INC., P.O. Box 539, Sunnyside, Wash. Applicant's attorney: George H. Hart, Central Building, Seattle 4, Wash. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries* and *frozen vegetables*, between points in Washington, Oregon, Idaho and California, including Ports of Entry on the boundary between the United States and Canada in Idaho and Washington.

No. MC 30423 (Sub No. 16), filed October 30, 1958. Applicant: OKLAHOMA-LOUISIANA MOTOR FREIGHT CO., an Oklahoma corporation, P.O. Box 2667, Stockyards Station, Oklahoma City, Okla. Applicant's attorney: W. T. Brunson, Leonhardt Building, Oklahoma City 2, Okla. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coffee beans* and *tea*, between points in Louisiana on the one hand, and, on the other, points in Oklahoma.

No. MC 31564 (Sub No. 1), filed October 14, 1958. Applicant: FRANK CORSO, 270 Wooding Street, Hamden, Conn. Applicant's attorney: Sidney L. Goldstein, 109 Church Street, New Haven, Conn. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Weehawken, Jersey City, Hoboken, and Port of Newark, N.J., New York and Brooklyn, N.Y., Philadelphia, Pa., Baltimore, Md., Charleston, S.C., Boston, Mass., and Norfolk, Va., to points in Connecticut, Massachusetts, and Rhode Island.

NOTE: Applicant states that the above-specified origin points are ocean-going ports.

No. MC 41404 (Sub No. 17), filed December 8, 1958. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Fulton Highway, Martin, Tenn. Applicant's attorney: Joseph M. Scanlan, 111 West Washington Street, Chicago 2, Ill. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, frozen vegetables, coffee beans* and *bananas*, from points in Alabama, Arkansas, Louisiana, and Tennessee, to points in Missouri, New York, Michigan, Indiana, Tennessee, Illinois, Pennsylvania, New Jersey, Georgia, Wisconsin, Kentucky, Arkansas, Massachusetts, Ohio, Kansas, Minnesota, Iowa, Louisiana, Texas, Oklahoma, and Florida.

No. MC 45057 (Sub No. 10), filed November 17, 1958. Applicant: DALE McLEOD, Doing business as McLEOD TRUCKING SERVICE, 1285 East Fifth Street, Reno, Nev. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, cocoa beans, coffee beans, tea, bananas, hemp, wool* imported from any foreign country, *wool tops and noils*, and *wool waste* (carded, spun, woven, or knitted), between points in California and Nevada.

No. MC 52564 (Sub No. 3), filed December 9, 1958. Applicant: ELLIOTT DELIVERY SERVICE, INC., 2130 24th Place, NE., Washington 18, D.C. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Frozen fruits, frozen berries*, and *frozen vegetables*, from Washington, D.C., and Roanoke and Winchester, Va., to Roanoke, Danville, Martinsville, Blacksburg, Bristol, Lynchburg, and Winchester, Va., Princeton and Bluefield, W. Va., and Washington, D.C.

No. MC 52709 (Sub No. 87), filed November 13, 1958. Applicant: RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver 5, Colo. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries*, and *frozen vegetables*, (1) from points in California to points in Colorado, Iowa, Indiana, Illinois, Minnesota, Michigan, Nebraska, Ohio, and Wisconsin; (2) from points in California to Phoenix and Tucson, Ariz., Boise, Idaho, St. Louis, Vinita Park, Springfield, Mexico and Kansas City, Mo., Reno and Las Vegas, Nev., Albuquerque, N. Mex., Fargo, N. Dak., Aberdeen, S. Dak., Pittsburg, Kans., Salt Lake City, Utah, and Louisville, Ky.; (3) from Modesto, Santa Maria and Santa Clara, Calif., to Oklahoma City and Tulsa, Okla.; (4) from Seattle, Wash., and Modesto, Calif., to Butte, Mont.; (5) from Arlington, Wash., to points in California, Wichita, Kans., St. Joseph, Mo., and Omaha, Nebr.; (6) from Centralia, Wash., to Turlock and San Diego, Calif.; (7) from Gresham, Oreg., to Chicago, Ill., and Vinita Park, Mo.; (8) from Yuma, Ariz., to Chicago, Ill.; (9) from Hopkins, Minn., to Salinas, Calif.; (10) from Sturgeon Bay, Wis., to Los Angeles, Santa Barbara and Buena Park, Calif.; (11) from Kansas City, Mo., to Liberal, Kans.; (12) from Burley, Idaho, to Chicago and Wheaton, Ill.; (13) from San Francisco, Calif., to El Paso, Tex.; (14) from Ludington, Mich., to Kansas City, Kans.; (15) from Clearfield and Brigham City, Utah, to St. Joseph, Marshall and Macon, Mo.; (16) from Kansas City, Kans., to Chicago, Ill., Des Moines, Iowa, Ludington, Mich., and Hopkins, Minn.; (17) from Los Angeles, Calif., to Buffalo, N.Y.; (18) from Brigham City, Utah, to Seattle, Wash.; (19) from Green Bay, Wis., to Reno, Nev., and Phoenix, Ariz.; (20) from Bear Lake, Mich., to Pasadena, Fresno and Glendale, Calif.

No. MC 68618 (Sub No. 27), filed December 8, 1958. Applicant: LOS ANGELES-SEATTLE MOTOR EXPRESS, INC., 3200 Sixth Avenue South, Seattle, Wash. Applicant's attorney: William B. Adams, Pacific Building, Portland 4, Oreg. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, frozen vegetables* and *bananas*, in straight and in mixed loads with *certain exempt commodities*, (1) between points in California, Oregon and Washington, including Ports of Entry on the boundary between the United States and Canada, in Washington, and (2) between points in Washington and Oregon, on the one hand, and, on the other, points in Nevada.

NOTE: Applicant indicates it will also transport frozen seafoods, frozen dinners, fish, codfish cakes, clam juice or broth, crab, oysters, eggs, poultry, fresh fruits and vegetables, in mixed shipments with the above-described commodities.

No. MC 90764 (Sub No. 15), filed October 27, 1958. Applicant: ARTHUR ROBERT ERWIN, doing business as ERWIN'S TRUCKING SERVICE, Florida Avenue, P.O. Box 68, Wellsville, N.Y. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Bananas*, (1) between Baltimore, Md., and Olean, N.Y., from Baltimore over U.S. Highway 140 to the junction of Maryland Highway 30, thence over Maryland Highway 30 to the Pennsylvania-Maryland State line, thence over Pennsylvania Highway 94 to York Springs, thence over U.S. Highway 15 to the junction of New York Highway 17, thence over New York Highway 17 to Olean, and return over the same route, serving no intermediate points; (2) between Weehawken, N.J., and Olean, N.Y., from Weehawken over New Jersey Highway 3 to the junction of U.S. Highway 46, thence over U.S. Highway 46 to the Pennsylvania-New Jersey State line, thence over U.S. Highway 611 to the junction of U.S. Highway 11, thence over U.S. Highway 11 to Binghamton, thence over New York Highway 17 to Olean, and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations in New York and Pennsylvania.

No. MC 94201 (Sub No. 39), (Republication), filed December 4, 1958, published at page 516, issue of FEDERAL REGISTER, January 22, 1959. Applicant: BOWMAN TRANSPORTATION, INC., 1010 Stroud Avenue, East Gadsden, Ala. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Frozen strawberries*, from Dayton, Tenn., to Memphis, Tenn.; from Memphis, Tenn., to Atlanta, Ga.; (2) *Frozen blackberries*, from Memphis Tenn., to Atlanta, Ga.; (3) *Coffee beans*, from Birmingham, Ala., to Chattanooga, Tenn.; from Jacksonville, Fla., to Chattanooga, Tenn.; (4) *Tea*, from Birmingham, Ala., to Chattanooga, Tenn.; from Memphis, Tenn., to Rich-

mond, Va.; (5) *Bananas,* from New Orleans, La., to Chattanooga, Tenn.

NOTE: Applicant states: The Coffee Beans from Birmingham, Alabama, applicable only on shipments originated by connecting carrier at New Orleans, Louisiana. The Tea from Birmingham, Alabama, applicable only on shipments originated by connecting carrier at New Orleans, Louisiana. The Tea from Memphis, Tennessee, applicable only on shipments originated by connecting carrier at Houston, Texas, and delivered by connecting carrier at Suffolk, Virginia.

NOTE: This republication clarifies the authority sought.

No. MC 105726 (Sub No. 7), filed December 9, 1958. Applicant: JORDAN ENTERPRISES, INC., 1443 Furnace Street, Montgomery, Ala. Applicant's attorney: Hugh R. Williams, 2284 West Fairview Avenue, Montgomery, Ala. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, frozen vegetables* and *bananas,* between points in Michigan, Georgia, Alabama, Tennessee, Indiana, Texas, Kentucky, Kansas, Nebraska, Oklahoma, Iowa, Florida, Mississippi, Louisiana, and Missouri.

No. MC 105813 (Sub No. 34), filed December 9, 1958. Applicant: BELFORD TRUCKING CO., INC., 1299 Northwest 23d Street, Miami 42, Fla. Applicant's attorney: Sol H. Proctor, 713–17 Professional Building, Jacksonville 2, Fla. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, frozen vegetables,* and *bananas,* from points in Florida, Illinois, Michigan, Georgia, and New York, to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Nebraska, and Kansas.

No. MC 107839 (Sub No. 28), filed December 8, 1958. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4716 Humboldt Street, Denver, Colo. Applicant's attorney: Marion F. Jones, 526 Denham Building, Denver 2, Colo. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from New Orleans, La., Mobile, Ala., and Galveston, Tex., to Denver, Colo.; *hemp* from New Orleans, La., Mobile, Ala., and Galveston, Tex., to Denver and Longmont, Colo.

No. MC 108207 (Sub No. 60), filed December 8, 1958. Applicant: FROZEN FOOD EXPRESS, a corporation, 318 Cadiz Street, Dallas, Tex. Applicant's attorney: Leroy Hallman, First National Bank Building, Dallas 2, Tex. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A) *Frozen fruits, frozen berries,* and *frozen vegetables,* (1) from points in Tennessee and Kansas to points in Arizona, Illinois, Minnesota, Tennessee, Nebraska, and Oklahoma; (2) from points in Michigan to points in Kansas, Nebraska, Iowa, Minnesota, and California; (3) from points in Arkansas to points in Ohio, Wisconsin, Tennessee, California, and Arizona; (4) from points in Texas to points in Ohio; (5) from points in Wisconsin to points in Texas and Missouri; (6) from points in Nebraska to points in Minnesota and California; (7) from points in Minnesota to points in Oklahoma, Texas, Louisiana, and Missouri; (8) from points in Missouri to points in Iowa and Nebraska; and (9) from points in California to points in New Mexico, Arizona, Indiana, Ohio, Minnesota, Pennsylvania, Wisconsin, Arkansas, Oklahoma, Mississippi, Illinois, Missouri, Kansas, Nebraska, Michigan, Iowa, and Tennessee; (B) *Bananas,* (1) from points in Texas to points in Texas, Iowa, Oklahoma, Ohio, Tennessee, Missouri, Kentucky, Nebraska, Wisconsin, Kansas, Michigan, and Minnesota; and (2) from points in Louisiana to points in Missouri, Illinois, Kansas, Minnesota, Indiana, Texas, Oklahoma, Iowa, and Nebraska; (C) *Cocoa beans, coffee beans,* and *tea,* from points in Louisiana to points in Illinois and Texas; and (D) *Commodities* which are exempt from economic regulation and/or from the certificate provisions of the Interstate Commerce Act, Part II, section 203(b)(6) (49 U.S.C.A. 303(b)(6), between points in Texas, Louisiana, Illinois, Michigan, Missouri, Arkansas, Oklahoma, Mississippi, Wisconsin, Minnesota, California, Tennessee, Kansas, Iowa, Nebraska, Pennsylvania, Kentucky, Indiana, Ohio, Arizona, and New Mexico.

NOTE: Applicant has authority to transport the above requested commodities over irregular routes and desires to be able to transport "exempt" commodities along with regulated shipments, even though no duplication authority is sought, as more fully explained in the application.

No. MC 109421 (Sub-No. 15) filed December 8, 1958. Applicant: CARTER TRUCKING CO., INC., doing business as COASTAL REFRIGERATED SERVICE, P.O. Box 1689, Tampa 1, Fla. Applicant's attorney: Norman J. Bolinger, 713–17 Professional Building, Jacksonville 2, Fla. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries,* and *frozen vegetables,* from points in California, Connecticut, Delaware, Florida, Georgia, Louisiana, Maryland, Massachusetts, New Jersey, New York, North Carolina, Oregon, Texas, and Washington, to points in Alabama, California, Connecticut, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

No. MC 110193 (Sub No. 36), filed December 8, 1958. Applicant: SAFEWAY TRUCK LINES, INC., 4625 West 55th Street, Chicago 32, Ill. Applicant's attorney: Joseph M. Scanlan, 111 West Washington Street, Chicago 2, Ill. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, berries and vegetables,* in straight and in mixed loads with *certain exempt commodities,* from points in New York, New Jersey, Pennsylvania, Michigan, Ohio, and Illinois, to points in Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Michigan, Ohio, Kentucky, Illinois, Maryland, Indiana, Minnesota, Iowa, Nebraska, Missouri, and Kansas.

NOTE: Applicant states it has been transporting fish, frozen fish, and poultry in mixed shipments with the above commodities.

No. MC 111981 (Sub No. 4), filed November 21, 1958. Applicant: ROBIDEAU'S EXPRESS, INC., 30 East Oregon Avenue, Philadelphia 48, Pa. Applicant's representative: Charles H. Trayford, 155 East 40th Street, New York, N.Y. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, frozen vegetables* and *bananas,* in straight and mixed loads with *certain exempt commodities,* between points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Virginia.

NOTE: Applicant states that the above commodities were transported in shipments with frozen poultry, frozen eggs, fish and seafood, frozen milk and cream, ice, wet or dry, fresh fruits, fresh berries, fresh vegetables, Christmas trees and empty fruit, berry and vegetable containers.

No. MC 112069 (Sub No. 7), filed December 10, 1958. Applicant: LIPSMAN-FULKERSON & CO., a Nebraska corporation, 314 South 11th Street, Omaha, Nebr. Applicant's attorney: Donald A. Morken, Eleven Hundred First National-Soo Line Building, Minneapolis 2, Minn. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries* and *frozen vegetables,* between points in Alabama, Arkansas, Arizona, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Washington, and Wisconsin.

No. MC 114796 (Sub No. 3), filed December 5, 1958. Applicant: WAREHOUSE DELIVERY SERVICE, INC., 26th and Water Streets, Bellaire, Ohio. Applicant's attorney: John P. McMahon, 44 East Broad Street, Columbus 15, Ohio. Grandfather authority sought under section 7 of the Transportation Act of 1958

to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries* and *frozen vegetables,* in mixed and in straight loads with *certain exempt commodities,* (1) between points in New York located (a) on and west of New York Highway 12 from Lake Ontario to the junction of New York Highway 12 with U.S. Highway 11 north of Binghamton, N.Y., and (b) thence on and west of U.S. Highway 11 to the New York-Pennsylvania State line; (2) between points in Pennsylvania located on and west of U.S. Highway 11 from the New York-Pennsylvania State line to the Pennsylvania-Maryland State line; (3) between points in Ohio located on and east of U.S. Highway 23 from the Michigan-Ohio State line to the Ohio-West Virginia State line; (4) between points in West Virginia; (5) between Boston and Gloucester, Mass.

NOTE: Applicant states that it transported frozen poultry and frozen fish and fish products in mixed shipments with the above commodities.

No. MC 117677, filed October 2, 1958. Applicant: JOHN MARSHALL and E. E. McNEAL, a partnership, doing business as RETURN LOADS, Huntsville Highway, Fayetteville, Tenn. Applicant's attorney: Martin Sack, Atlantic National Bank Building, Jacksonville, Fla. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from New Orleans, La., Mobile, Ala., and Miami and Tampa, Fla., to Nashville, Tenn.

NOTE: John Marshall and E. E. McNeal each own 50 percent of the common stock of Southern Truck Lines, Inc., No. MC 108991.

No. MC 117746, filed October 22, 1958. Applicant: VINCENT J. CICALESE, 89 Gotthart Street, Newark, N.J. Applicant's attorney: Herman B. J. Weckstein, 1060 Broad Street, Newark 2, N.J. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* between points in Maryland, New Jersey, New York, Pennsylvania, and Virginia.

No. MC 117753, filed October 24, 1958. Applicant: J. F. GURRY TRANS. CO., INC., 167 West Fifth Street, South Boston, Mass. Applicant's attorney: G. S. Donavan, 11 Beacon Street., Boston 8, Mass. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, frozen vegetables, coffee beans, bananas, wool* imported from any foreign country, *wool tops and noils,* and *wool waste* (carded, spun, woven or knitted), in mixed and in straight loads with *certain exempt commodities,* between points in the New York, N.Y., Commercial Zone as defined by the Commission, points on Long Island, N.Y., Union City, Weehawken, Port Newark, Newark, Bayonne, and Paterson, N.J., Baltimore, Md., Charleston, S.C., Portland, Lewiston, and Waterville, Mo., Boston, Gloucester, Essex, Fitchburg, Brockton, Springfield, Southbridge, and Lawrence, Mass., Philadelphia and Pittsburgh, Pa., Providence and Olneyville, R.I., Williams, Willimantic, Hartford, Conn., and Burlington, Vt.

NOTE: Applicant states that sometimes the above commodities are transported in mixed shipments with fish and poultry.

No. MC 117848, filed November 17, 1958. Applicant: FRED CARPENTIER, 1415 Luzerne Street., Scranton 4, Pa. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from New York, N.Y., Weehawken, N.J., and Baltimore, Md., to Scranton and Wilkes Barre, Pa.

No. MC 117861, filed November 20, 1958. Applicant: NORMAN A. BORINSTEIN, doing business as N A B TRUCKING CO., 939 Union Street, Indianapolis, Ind. Applicant's attorney: James L. Beattey, 130 East Washington Street, Suite 1021–1029, Indianapolis 4, Ind. Grandfather authority sought under section 7 of the Transportation Act of 1948 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from New Orleans, La., Charleston, S.C., Mobile, Ala., and Miami and Tampa, Fla., to Indianapolis, Ind.

No. MC 117864, filed November 21, 1958. Applicant: JAMES M. SAKS AND JOSEPH HAZZOURI, doing business as SAKS & HAZZOURI, 6 Lackawanna Avenue, Scranton, Pa. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Weehawken, N.J., New York, N.Y., and Baltimore, Md., to Scranton, Pa., and Binghamton, N.Y.

No. MC 117883, filed November 24, 1958. Applicant: SUBLER TRANSFER, INC., Box 5, East Main Street, Versailles, Ohio. Applicant's attorney: Taylor C. Burneson, 3510 Leveque-Lincoln Tower, Columbus 15, Ohio. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits* and *frozen vegetables,* from points in Delaware, Maryland, Virginia, New Jersey, and Wayne County, N.Y., to Chicago, Ill., Indianapolis, Ind., Napoleon, Cincinnati and Columbus, Ohio, and Huntington, W. Va.

NOTE: Applicant is authorized to conduct operations as a contract carrier in Permit No. MC 109385 and sub numbers thereunder; a proceeding has been instituted under section 212(c) in No. MC 109385 Sub No. 16 to determine whether applicant's status is that of a contract common carrier.

No. MC 117941, filed December 1, 1958. Applicant: W. A. JONES, 2228 Park Lake Drive, Waco, Tex. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *Bananas,* from New Orleans, La., to Waco, Tex.

No. MC 117954, filed December 3, 1958. Applicant: H. L. HERRIN, JR., 4634 Lancelot Drive, New Orleans, La. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from New Orleans, La., to points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Missouri, Mississippi, Minnesota, Michigan, Nebraska, New Mexico, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

No. MC 117986, filed December 3, 1958. Applicant: GILBERT FALCONE AND ALFRED DeLUÇA, GILBERT & AL TRANSFER, 1217 Maine Avenue SW., Washington 24, D.C. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* between Baltimore, Md., Roanoke, Danville, Richmond, and Norfolk, Va., Wilmington, Del., New York, N.Y., Weehawken and Camden, N.J., Washington, D.C., and Allentown, Harrisburg, and Philadelphia, Pa.

No. MC 118089, filed December 8, 1958. Applicant: JACK DWENGER, Weatherford, Tex. Applicant's attorney: T. S. Christopher, Continental Life Building, Fort Worth 2, Tex. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Galveston, Tex., and New Orleans, La., to points in Arizona, Arkansas, Colorado, California, Iowa, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE: Applicant indicates he will transport bananas in mixed shipments with exempt commodities, as more specifically set forth in his application.

No. MC 118101, filed December 5, 1958. Applicant: RAY GILBERT, JR., 3111 North 32d Street, Route 3, Muskogee, Okla. Applicant's attorney: R. M. Mountcastle, 605–6 Barnes Building, Muskogee, Okla. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from New Orleans, La., to Lincoln, Hastings, and Omaha, Nebr., Poplar Bluffs and Joplin, Mo., Austin, Mankato, Rochester, and Winona, Minn., Casper, Wyo., Fort Dodge, Esterville, Waterloo, and Des Moines, Iowa, Salina and Topeka, Kans., and Rapid City, S. Dak.

NOTE: Applicant indicates it also transports coconuts in mixed shipments with bananas.

No. MC 118116, filed December 9, 1958. Applicant: GLEN JENSEN, doing business as GLEN JENSEN PRODUCE CO., 2474 Redondo Avenue, Salt Lake City, Utah. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* in straight and in mixed loads with *cer-*

tain exempt commodities, between points in Utah, Arizona, and California.

No. MC 118162, filed December 9, 1958. Applicant: JOSEPH D. HOLLAND, 626 Chesapeake Street, Hutington, W. Va. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Baltimore, Md., Charleston, S.C., Miami and Tampa, Fla., New Orleans, La., New York, N.Y., Norfolk, Va., Philadelphia, Pa., and Weehawken, N.J., to Huntington, W. Va.

No. MC 118213, filed December 9, 1958. Applicant: ANN ELIZABETH NEELY, doing business as WILLIAM K. NEELY, 2871 East Venango Street, Philadelphia, Pa. Applicant's attorney: Raymond A. Thistle, Jr., 811–819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* (1) from Baltimore, Md., New York, N.Y., and Weehawken, N.J., to points in Berks, Lackawanna, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, and Schuylkill Counties, Pa., points in Mercer County, N.J., the cities of Camden and Bridgeton, N.J., and to Wilmington, Del.; (2) from Baltimore Md., to Newark, N.J., and New York, N.Y.; (3) from New York, N.Y., and Weehawken, N.J., to Baltimore, Md.; (4) from Philadelphia, Pa., to points in Henrico, Norfolk, and Roanoke, Va., points in Lackawanna and Luzerne Counties, Pa., and to points in Mercer County, N.J., and the cities of Baltimore, Md., Boston, Mass., Bridgeton and Newark, N.J., New York, N.Y., and Wilmington, Del.; (5) from Charleston, S.C., to points in Mercer County, N.J., to points in Lehigh, Montgomery, Northampton, and Philadelphia Counties, Pa., and to the cities of Camden, N.J., and Wilmington, Del.; and (6) *refused, rejected, or damaged shipments of Bananas, and Banana boxes, hampers, and baskets,* from the above-specified destination points to the above-specified origin points.

No. MC 118223, filed December 5, 1958. Applicant: H. C. SCHMIEDING, H. E. SCHMIEDING, AND L. H. SCHMEIDING, doing business as H. C. SCHMEIDING PRODUCE CO., P.O. Box 148, Springdale, Ark. Applicant's attorney: Stanley P. Clay, 514 First National Building, Joplin, Mo. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from New Orleans, La., Mobile, Ala., and Orange, Tex., to points in Missouri and Iowa.

No. MC 118282, filed December 9, 1958. Applicant: THEODORE V. FALL, doing business as TED FALL TRUCKING, North Lake Street, Lake City, Pa. Applicant's attorney: Arthur J. Diskin, 302 Frick Building, Pittsburgh 19, Pa. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries,* and *frozen vegetables,* between points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

No. MC 118381, filed December 10, 1958. Applicant: MURRAY J. FINDLAY, doing business as K & K TRUCKING, 140 Otis Street, Walla Walla, Wash. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, frozen vegetables* and *bananas,* between points in Washington, Montana, Idaho, Oregon, and California, and straight and mixed shipments of *fresh fruits, fresh berries and fresh vegetables* were and are being transported in mixed shipments with the above specified commodities.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59–1440; Filed, Feb. 17, 1959; 8:47 a.m.]

[Notice 1]

APPLICATIONS FOR MOTOR CARRIER CERTIFICATE OR PERMIT COVERING OPERATIONS COMMENCED DURING "INTERIM PERIOD"

FEBRUARY 13, 1959.

Applications for motor carrier certificate or permit covering operations commenced during the "interim" period, after May 1, 1958, but on or before August 12, 1958.

The following applications and certain other procedural matters relating thereto are filed under the "interim" clause of section 7(c) of the Transportation Act of 1958. These matters are governed by Special Rule § 1.243 published in the FEDERAL REGISTER issue of January 8, 1959, page 205, which provide, among other things, that this publication constitutes the only notice to interested persons of filing that will be given; that appropriate protests to an application (consisting of an original and six copies each) must be filed with the Commission at Washington, D.C. within 30 days from the date of this publication in the FEDERAL REGISTER; that failure to so file seasonably will be construed as a waiver of opposition and participation in such proceeding, regardless of whether or not an oral hearing is held in the matter; and that a copy of the protest also shall be served upon applicant's representative (or applicant, if no practitioner representing him is named in the notice of filing).

No. MC 13123 (Sub No. 22), filed December 10, 1958. Applicant: WILSON FREIGHT FORWARDING CO., 3636 Follett Avenue, Cincinnati, Ohio. Applicant's attorney: Wilmer B. Hill, Transportation Building, Washington, D.C. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, frozen vegetables,* and *wool* imported from any foreign country, between points in Delaware, Maine, Maryland, Massachusetts, Minnesota, Tennessee, Virginia, and Washington, D.C. and points in its Commercial Zone, on the one hand, and, on the other, points in Tennessee, Kentucky, Illinois, Indiana, Ohio, Pennsylvania, West Virginia, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Maryland, Virginia, North Carolina, Georgia, Alabama, Louisiana, Florida, Wisconsin, New Hampshire, Michigan, Nebraska, Missouri, and Washington, D.C., and points in its Commercial Zone.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 59292 (Sub No. 14), filed October 24, 1958. Applicant: THE MARYLAND TRANSPORTATION COMPANY, a corporation, 1111 Frankfurst Avenue, Baltimore 25, Md. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Baltimore, Md., to Youngstown, Ohio. Applicant is authorized to conduct operations in Maryland, the District of Columbia, Virginia, West Virginia, Pennsylvania, Massachusetts, Delaware, Connecticut, New Jersey, New Hampshire, New York, Rhode Island, North Carolina, and Ohio.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 60116 (Sub No. 3), filed December 8, 1958. Applicant: WING'S EXPRESS, INC., 85 Railroad Avenue, Haverhill, Mass. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen berries,* from West Rockport, Union, and Corinna, Maine, to Boston, Mass.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 67118 (Sub No. 8), filed December 9, 1958. Applicant: STRONG MOTOR LINES, INCORPORATED, 2311 West Main Street, P.O. Box 8821, Richmond 25, Va. Applicant's attorney: Dale C. Dillon, 1825 Jefferson Place NW., Washington 6, D.C. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Wool* imported from any foreign country, from Richmond and Norfolk, Va., to Raleigh, N.C., and Jamestown, S.C.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 82160 (Sub No. 4), filed October 24, 1958. Applicant: MOUNTAIN ROAD AUTO FREIGHT CO., INC., 523 Payullup Avenue, Tacoma 2, Wash. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, between points in Washington.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 91306 (Sub-No. 7), filed November 26, 1958. Applicant: JOHNSON BROTHERS TRUCKERS, INC., P.O. Box 189, Elkin, N.C. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wool* imported from any foreign country, from Norfolk, Va., to Elkin, N.C.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC–95540 (Sub-no. 299), filed December 5, 1958. Applicant: WATKINS MOTOR LINES, INC., Cassidy Road, Thomasville, Ga. Applicant's attorney: Joseph H. Blackshear, Gainesville, Ga. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, Frozen berries* and *Frozen vegetables*, from points in Arkansas, California, Delaware, Georgia and New York to points in Alabama, California, District of Columbia, Illinois, Louisiana, Nebraska, North Carolina, Missouri, Oklahoma, Pennsylvania, Texas, and Virginia.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 107839 (Sub No. 27), filed October 16, 1958. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4716 Humboldt Street, Denver, Colo. Applicant's attorney: Marion F. Jones, 526 Denham Building, Denver 2, Colo. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coffee beans*, from New Orleans, La., to Denver, Colo. Applicant is authorized to conduct operations in Colorado, Florida, Louisiana, New Mexico, and Texas.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 111812 (Sub–No. 61), filed December 3, 1958. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 747, Wilson Terminal Building, Sioux Falls, S. Dak. Applicant's attorney: Donald Stern, 924 City National Bank Building, Omaha, Nebr. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries*, and *frozen vegetables*, from points in Maine, Maryland, Massachusetts, Pennsylvania and New York to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Nebraska, New York, North Dakota, Ohio, Pennsylvania, South Dakota, and Wisconsin. Applicant indicates *certain exempt commodities* were transported in mixed shipments and seeks authority to continue such operations.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 112582 (Sub No. 9), filed October 31, 1958. Applicant: T. M. ZIMMERMAN COMPANY, a corporation, 227 West Commerce Street, Chambersburg, Pa. Applicant's attorney: John M. Musselman, State Street Building, Harrisburg, Pa. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries* and *frozen vegetables*, from Chambersburg, Pa., and points within 25 miles thereof, and points in Massachusetts, New York, and West Virginia, to Chambersburg, Pa., and points within 25 miles thereof and points in New York, Ohio, and Pennsylvania.

NOTE: Applicant indicates that operations were commenced some time after May 1, 1958, but on or before August 12, 1958.

No. MC 113434 (Sub No. 4) filed December 5, 1958. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln, Holland, Mich. Applicant's attorney: Wilhelmina Boersma, 2850 Penobscot Building, Detroit 26, Mich. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries* and *frozen vegetables*, from points in Michigan to points in Indiana and Illinois.

NOTE: Applicant indicates that operations were commenced some time after May 1, 1958, but on or before August 12, 1958.

No. MC 114796 (Sub No. 4), filed December 5, 1958. Applicant: WAREHOUSE DELIVERY SERVICE, INC., 26th and Water Street, Bellaire, Ohio. Applicant's attorney: John P. McMahon, 44 East Broad Street, Columbus 15, Ohio. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries* and *frozen vegetables*, in mixed and in straight loads with *certain exempt commodities*, between (1) points in New York located (a) on and west of State Route 12 from Lake Ontario to the junction of State Route 12 with U.S. Highway 11 north of Binghamton, N.Y.; (b) thence on and west of U.S. Highway 11 to the New York-Pennsylvania State line; (2) points in Pennsylvania located on and west of U.S. Highway 11 from the New York-Pennsylvania line to the Pennsylvania-Maryland State line; (3) points in Ohio located on and east of U.S. Highway 23 from the Michigan-Ohio line to the Ohio-West Virginia State line; (4) points in the State of West Virginia; and (5) Boston and Gloucester, Mass.

Applicant states that it transported *Frozen poultry* and *frozen fish* and *fish products* in mixed shipments with the above commodities.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC–115942 (Sub–No. 1) filed December 4, 1958. Applicant: DIGBY LAFFERTY, doing business as LAFFERTY REFRIGERATED EXPRESS, P.O. Box 328, Hollidaysburg, Pa. Applicant's attorney: Robert H. Griswold, Commerce Building, Harrisburg, Pa. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Baltimore, Md., and points in the New York, N.Y., commercial zone, to Youngstown, Ohio.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 117688 filed October 6, 1958. Applicant: MOUYIOS TRANSPORT, INC., 5 School Street, Yonkers, N.Y. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, between Weehawken, N.J., and Yonkers, N.Y.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 117883 (Sub No. 1), filed November 24, 1958. Applicant: SUBLER TRANSFER, INC., Box 5, East Main Street, Versailles, Ohio. Applicant's attorney: Taylor C. Burneson, 3510 Leveque-Lincoln Tower, Columbus 15, Ohio. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen berries*, in seasonal operations during the summer of each year, from Paducah, Ky., to Hurlock, Md., New York, N.Y., and Philadelphia, Steelton, and Jeanette, Pa.

NOTE: Applicant is authorized to conduct operations as a contract carrier in Permit No. MC 109385 and sub numbers thereunder; a proceeding has been instituted under section 212(c) in No. MC 109385 Sub No. 16, to determine whether applicant's status is that of a contract or common carrier. Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

No. MC 118071, filed December 8, 1958. Applicant: VICTOR CHIMIENTI, W–1023 Ide Avenue, Spokane, Wash. Authority sought under section 7 of the Transportation Act of 1958 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries* and *frozen vegetables*, between points in Washington, California, and Oregon.

NOTE: Applicant indicates that operations were commenced sometime after May 1, 1958, but on or before August 12, 1958.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 59–1442; Filed, Feb. 17, 1959; 8:47 a.m.]

[Notice 73]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICE

FEBRUARY 13, 1959.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with no service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Special Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 3377 (Deviation No. 2), LASKAS MOTOR LINES, INC., 375 Thomaston Avenue, Waterbury 20, Conn., filed February 9, 1959. Attorney for said carrier, Thomas W. Murrett, 410 Asylum Street, Hartford 3, Conn. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities,* with certain exceptions, over a deviation route, between the Western Terminus of the New England Section of the New York State Thruway at the intersection of Bruckner Boulevard and Westchester Avenue in the Bronx, New York City, N.Y., and junction of the Bryam River Bridge at the New York-Connecticut State line with the Western Terminus of the Connecticut Turnpike near Port Chester, N.Y., as follows: from the Western Terminus of the New England Section of the New York State Thruway over the New England Section of the New York State Thruway and access routes to junction Bryam River Bridge with the Western Terminus of the Connecticut Turnpike and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Hartford, Conn., and Perth Amboy, N.J., over the following pertinent route: from Hartford over Connecticut Highway 175 to New Britain, Conn., thence over Connecticut Highway 72 to Plainville, Conn., thence over Connecticut Highway 10 to Cheshire, Conn., thence over Connecticut Highway 70 to Waterbury, Conn., thence over Connecticut Highway 8 to Stratford, Conn., thence over U.S. Highway 1 via Rahway Junction, N.J., to junction U.S. Highway 9, and thence over U.S. Highway 9 to Perth Amboy.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-1443; Filed, Feb. 17, 1959; 8:47 a.m.]

[Notice 87]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 13, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 61927 By order of February 11, 1959, the Transfer Board approved the transfer to Raymond Buis, doing business as Buis Trucking, Somerset, Kentucky, of the operating rights in Permit No. MC 116429, issued June 10, 1957, to Marshall L. Devine, authorizing the transportation, over irregular routes, of fertilizer, in bags, from Sheffield, Ala., to Winchester, Ky. Fritz Krueger, Albertson Building, Somerset, Kentucky, for applicants.

No. MC-FC 61929. By order of February 10, 1959, the Transfer Board approved the transfer to Shearer's Express, Inc., Oneonta, N.Y., of Certificate No. MC 92371 Sub 3, issued July 9, 1951, to David C. Shearer doing business as Shearer's Express, Oneonta, N.Y., authorizing the transportation of general commodities, excluding household goods and commodities in bulk, and other specified commodities, over irregular routes, between Central Bridge, N.J., on the one hand, and, on the other, St. Johnsville and Johnstown, N.Y. Grant and Grant, 16 Dietz Street, Oneonta, N.Y., for applicants.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-1444; Filed, Feb. 17, 1959; 8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 13, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35245: *Fine coal—Alabama mines to Carolina territory.* Filed by O. W. Smith, Jr., Agent (SFA No. A3773), for interested rail carriers. Rates on fine coal, carloads from mines in Alabama to Augusta, Ga., and specified points in North Carolina and South Carolina.

Grounds for relief: Market competition with mines in Kentucky, Tennessee, Virginia and West Virginia.

Tariff: Supplement 6 to Southern Freight Association tariff I.C.C. S-39.

FSA No. 35246: *Asphalt—Southwest to Paducah, Ky., and group.* Filed by Southwestern Freight Bureau, Agent (B-7483), for interested rail carriers. Rates on asphalt (asphaltum), carloads from points in Arkansas, Kansas, Louisiana, Oklahoma and Texas to Paducah, Ky., and points grouped therewith.

Grounds for relief: Short-line distance formula.

Tariff: Supplement 42 to Southwestern Lines Freight Bureau tariff I.C.C. 4165.

FSA No. 35247: *Substituted service—M. & St. L. Ry., for Ace Lines, Inc.* Filed by Associated Motor Carriers Tariff Bureau, Agent (No. 6), for The Minneapolis & St. Louis Railway Company and interested motor carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Ft. Dodge, Iowa, on the one hand, and Minneapolis, Minn., on the other, on traffic originating at or destined to points on motor lines beyond the named rail substitution points.

Grounds for relief: Motor-truck competition.

Tari: Associated Motor Carriers Tariff Bureau tariff MF-I.C.C. No. A-82.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-1445; Filed, Feb. 17, 1959; 8:48 a.m.]

SUBVERSIVE ACTIVITIES CONTROL BOARD

[Docket No. 51-101]

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA

Registration as Communist-Action Organization

William P. Rogers, Attorney General of the United States, Petitioner v. The Communist Party of the United States of America, Respondent.

Upon reconsideration by the Board of its prior determination in this proceeding, pursuant to the decision of the United States Court of Appeals for the District of Columbia Circuit, sub nom,

Communist Party of the United States of America v. Subversive Activities Control Board, 254 F. 2d 314, the Board, proceeding under section 14(a) of the Subversive Activities Control Act of 1950, reaffirmed on February 9, 1959, its prior order requiring the Communist Party of the United States of America to register as a Communist-action organization under the above Act. In so doing, it entered the following recommendation to the Court:

Recommended that the United States Court of Appeals for the District of Columbia Circuit affirm the Board's Order entered April 20, 1953, requiring the Communist Party of the United States to register as a Communist-action organization under section 7 of the Subversive Activities Control Act of 1950.

(Signed) Dorothy McCullough Lee, Chairman, (Signed) Francis A. Cherry, Member, (Signed) R. Lockwood Jones, Member, (Signed) James R. Duncan, Member (Member Donegan not participating).

February 9, 1959.
Washington, D.C.

DOROTHY MCCULLOUGH LEE,
Chairman.

FEBRUARY 12, 1959.

[F.R. Doc. 59-1436; Filed, Feb. 17, 1959; 8:46 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

KUO LEE TSO

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Kuo Lee Tso, Keizersgracht 681, Amsterdam, The Netherlands; Claim No. 61653; $2,535.57 in the Treasury of the United States.

Vesting Orders Nos. 17838 and 17913.

Executed at Washington, D.C., on February 11, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1450; Filed, Feb. 17, 1959; 8:48 a.m.]

CONSTANTIA CLARA MARIA VAN LYNDEN

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Constantia Clara Maria van Lynden, Maarn, The Netherlands; Claim No. 66968; all right, title and interest of the Attorney General acquired pursuant to Vesting Order No. 18519 (16 F.R. 10101, October 3, 1951) in and to the following securities: Cities Service Company 5/58, Debenture No. 46830, Southern Pacific Company 4½/69, Bonds Nos. 32502/3, Southern Pacific Railroad Company 4/55, Bonds Nos. 35777, 35779, 87751 and 129416, and Union Pacific Railroad Company 4/47, Bond No. 50486, all in the principal amount of $1,000 each. Southern Pacific Company 4/49, Bond No. 8777, in the principal amount of $500. All right, title and interest of the Attorney General acquired pursuant to Vesting Order No. 18761 (17 F.R. 1454, February 14, 1952) in and to Union Pacific Railroad Company 4/47, Bond No. 41137, in the principal amount of $1,000.

Vesting Orders Nos. 18519 and 18761.

Executed at Washington, D.C., on February 11, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1451; Filed, Feb. 17, 1959; 8:48 a.m.]

ERWIN WYSCHER

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Erwin Wyscher, 7 rue du Portier, Monte Carlo, Monaco, Claim No. 62449; $8,755.17 in the Treasury of the United States. Vesting Order Nos. 15709 and 18662.

Executed at Washington, D.C., on February 11, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1452; Filed, Feb. 17, 1959; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—FEBRUARY

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